



# THE EMPLOYMENT TRIBUNAL

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**SITTING AT:** LONDON SOUTH

**BEFORE:** EMPLOYMENT JUDGE HARRINGTON  
(sitting alone)

**BETWEEN:**

Mr F Blenkinsop

Claimant

and

Commissioning Technical Services Limited

Respondent

**ON:** 24 March 2021

**Appearances:**

**For the Claimant:** In person

**For the Respondent:** Mr J Roddy, Paralegal

## **Reasons for Judgment dated 24 March 2021**

- 1 A Preliminary Hearing took place on 24 March 2021 to consider whether Mr Blenkinsop, the Claimant, had presented his claim to the Tribunal within the applicable time limits. At the conclusion of that hearing, I gave Judgment that the claims of age discrimination and for a failure to pay notice pay were brought outside the primary limitation period. No extension of time for bringing the claims was granted and accordingly, the Tribunal has no jurisdiction to consider the claims further.
- 2 In an email received on 16 April 2021 the Claimant states that he wishes to make an application to appeal my decision. The Claimant refers to the Respondent and its representative having lied. I have treated this email as a request for the full written reasons for my decision made at the Preliminary Hearing. If the Claimant wishes to appeal my decision, he should direct his appeal to the Employment Appeal Tribunal as advised in correspondence previously sent to him with my Judgment.

- 3 By a letter from the Tribunal dated 25 November 2020, this case was listed for a Preliminary hearing to consider whether the claim was received within the applicable time limits.
- 4 The Claimant's claims of unfair dismissal and for a redundancy payment have already been struck out because the Claimant did not have the necessary two years length of service with the Respondent. Accordingly, those claims could not proceed.
- 5 The Claimant's remaining claims are those for notice pay and age discrimination. It is agreed by the parties that these claims were brought out of time. Both claims are subject to a three month time limit for bringing a claim to the Employment Tribunal.
- 6 The Claimant's ET1 was received by the Tribunal on 2 September 2020. The Respondent says that the Claimant's employment came to an end on 8 May 2020, although the Claimant has referred to being dismissed on 30 April 2020. Taking the later of these two dates and allowing for the period of early conciliation, which spans 25 May 2020 until 9 June 2020, the Claimant's claim was received out of time.
- 7 I refer to the following relevant sections as to time limits. With regards to age discrimination, Section 123(1) of the Equality Act 2010 provides that a complaint may not be brought after the end of:
  - a) the period of 3 months starting with the date of the act to which the complaint relates, or
  - b) such other period as the Tribunal thinks just and equitable.
- 8 With regards to the complaint of a failure to pay notice pay, said to be a breach of contract claim, Article 7 of the ET Extension of Jurisdiction (England and Wales) Order 1994 provides that a tribunal shall not entertain a complaint in respect of an employee's contract claim unless it is presented within the period of three months beginning with the effective date of termination of the contract giving rise to the claim or, where the tribunal is satisfied that it was not reasonably practicable for the complaint to be presented within that period, within such further period as the tribunal considers reasonable.
- 9 It is therefore necessary to consider whether to extend time for bringing these claims. The exercise of my discretion to do so is managed by these different provisions. So far as the age discrimination claim is concerned, I must consider whether it is just and equitable to extend time. Insofar as the notice pay claim is concerned, I must consider whether I am satisfied that it was not reasonably practicable for a complaint to have been presented within the required time period and, if I am so satisfied, whether the claim was then presented within such further period as the Tribunal considers reasonable.

- 10 This case has been marked by how Mr Blenkinsop presented himself at the Preliminary Hearing. Whilst I explained to him the criteria according to which I had to decide whether to exercise my discretion to extend time, Mr Blenkinsop provided the briefest of explanations and submissions to me. He told me that he was aware of the three month time limit for presenting his claims. He was aware of this relatively soon after he was dismissed by the Respondent because he was told about it by his father a week or so after his dismissal. He was also in contact with ACAS. Mr Blenkinsop was also aware prior to submitting his claims that there was an argument that he could not bring an unfair dismissal claim because of his length of service with the Respondent.
- 11 In addressing me Mr Blenkinsop provided absolutely no cogent explanation as to why he did not submit his claim form to the Tribunal at an earlier time and, in accordance with the three month time limit that he knew about. For example, there was no suggestion that he was unwell or that there was a particular personal circumstance which actively prevented him from submitting the ET1 within the required time. In the very brief statements spoken by him at the hearing, Mr Blenkinsop told me that he mistakenly thought the claim had been put in in time. He told me quite frankly that there was no particular reason he could not have submitted the claim earlier. He reflected that he remembers that there was good weather and so he was sat in the garden. When I queried his comment about sitting the garden, Mr Blenkinsop added that he was sat in the garden and drinking. He confirmed he had nothing to add to this explanation.
- 12 On the basis of the information provided to me by Mr Blenkinsop, I am entirely satisfied that there are no grounds for exercising my discretion to extend time for bringing the claims of age discrimination and unpaid notice pay.
- 13 The claims are dismissed as they have been brought out of time and the Tribunal does not have jurisdiction to consider them further.

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Employment Judge Harrington  
6 June 2021

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