



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr R Leach

**Respondent:** Chromatics Glass Ltd

**Heard at:** London South Employment Tribunal

**On:** 30 March 2021

**Before:** Employment Judge Keogh

## Representation

Claimant: In person

Respondent: Mr C Rankin

**JUDGMENT** having been sent to the parties on 21 April 2021 and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

## REASONS

1. By a letter dated 25 February 2021 Employment Judge Ferguson ordered that a preliminary hearing should be held to consider whether the Tribunal has jurisdiction to consider the claim in light of the applicable time limits, and any application for an extension of time to present a response.
2. The claim in this matter was filed on 25 May 2020. It gives the date of termination of employment as 29 January 2020. ACAS early conciliation was commenced on 29 April 2020 and a certificate issued on 30 April 2020.
3. The ET3 reponse form agrees that the date of termination was 29 January 2020.
4. Mr Leach gave evidence to the Tribunal about his claim and the time he presented it. He did not dispute that he received a letter dated 29 January 2020 which terminated his employment without notice on the basis of gross misconduct. He must have been aware that the termination was without notice as firstly this was stated in the letter, and secondly because he has claimed for notice pay. In the circumstances I find that the effective date of termination was 29 January 2020. This is not affected by the time it took to conduct an appeal against dismissal.

5. Under section 111 Employment Rights Act 1996 (ERA) the Tribunal shall not consider a complaint of unfair dismissal unless it is presented to the Tribunal before the end of the period of three months beginning with the effective date of termination, or within such further period as the Tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that three month period. The primary limitation period therefore ended on 28 April 2020.
6. Under section 207B ERA 1996 an extension to the primary time limit is given where contact is made with ACAS in order to comply with the rules of early conciliation. However, this only applies where ACAS is contacted during the primary limitation period. If the limitation period has expired, no extension can be given.
7. I have therefore considered whether it was reasonably practicable for Mr Leach to bring his claim or at least to contact ACAS before the end of the three month period. Mr Leach gave evidence that he was ill with Covid during December 2019 but worked in January. His wife was ill in March 2020. The appeal of his dismissal was heard by the director of an external company called HBO. Mr Leach agreed that shortly after the conclusion of the appeal, which I find was on 28 March 2020, the director of HBO informed him that he had three months less a day to contact ACAS. He did not think that time period was correct. He thought he had a six month notice period. However, he was informed by ACAS on 28 April 2020 that he should put in his form immediately. He did so the following day on 29 April 2020. Mr Leach accepted that he had access to the internet and was aware of the ACAS website, as that is how he got in touch with ACAS.
8. I find that it was reasonably practicable for Mr Leach to issue his claim form or to contact ACAS by 28 April 2020. He had been informed of the correct time limit in late March or early April 2020 and would still have had several weeks in which to contact ACAS. He was aware of the ACAS website and could and should have used the information there to inform himself of the correct time limit if he was not sure. He knew that he had been dismissed without notice therefore it was not reasonable for him to conclude that he would have a further six months in which to bring a claim.
9. In the circumstances the claim has not been brought within the applicable time limits and the Tribunal does not have jurisdiction to hear it. The claim is therefore dismissed.
10. As I dismissed the claim I did not go on to consider whether an extension of time would have been granted to present the response.

Employment Judge Keogh  
Date 6 May 2021