



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr Mr Q Hu

**Respondent:** Nicholas Associates Group Ltd trading as Staffordce Young's Seafood Limited

## JUDGMENT

The Claimant's application dated **29 March 2022** for reconsideration of the judgment dated 16 March 2022 is refused.

## REASONS

1. The Claimant makes an application for reconsideration of the judgment referred to above. I assume from the content of his application that he seeks reconsideration of my findings that most of his claims were submitted out of time.

2. Much of the application concentrates on a variety of medical conditions suffered by the Claimant. With respect to him, this misses the point. Only the first few lines address the central issue as to whether it was reasonably practicable or just and equitable to submit his claims in time or to extend time, as the case may be.

3. During the hearing, the Claimant advanced the argument that bank holidays should not be counted in determining time limits. Regrettably for him, there was only one bank holiday during the relevant period and that was the August Bank Holiday. Given that the claims were submitted more than one day out of time, that argument cannot stand. For the same reason, his argument in his application that the Tribunal has a discretion to allow an extra day for submission of his claims where the day for submission falls on a weekend, cannot stand.

4. The Claimant cites Rule 4(2) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 as authority for this proposition. It states:

**If the time specified by these Rules, a practice direction or an order for doing any act ends on a day other than a working day, the act is done in**

time if it is done on the next working day.

5. Clearly, the Claimant cannot avail himself of this exception when he was many days out of time in submitting his claims.

6. The remainder of his application concentrates on his medical conditions. These were not advanced at the hearing yet were well within his knowledge at the time. I also bear in mind that the Claimant had been well enough to instruct solicitors in his personal injury claim against the second Respondent and, this being the case, there is no reason why he was incapable of taking advice in the Employment Tribunal claims (**Mitchell v Inner London Probation Service ET case no 1100823/1998** and **Scultz v Esso Petroleum Co Ltd ICR 1202, CA**). In the hearing, I did not accept the Claimant's argument that he knew nothing of the personal injury claim, especially when he signed it to acknowledge receipt of a copy, and I see no reason to change that view.

7. Other than copies of prescriptions, the Claimant has produced no evidence to suggest that he was incapable of submitting his claims in time.

8. The Claimant also seeks to rely on advice he received from ACAS during the early conciliation period. He has produced no evidence of this advice but it seems to me that, when he refers to being told he had 30 days in which to submit his claim from the date of the early conciliation certificate, he was probably told of the effect on the time limit for submitting his claim by entering early conciliation and not that the time limit was affected to the extent he maintains. Accordingly, he cannot rely on the facts to the extent allowed by the Employment Tribunal in **Drewery v Carphone Warehouse Limited ET case no. 32030576/2006**.

9. For the above reason, I do not find it in the interests of justice to reconsider my earlier judgment.

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Employment Judge **Butler**

Date 25 April 2022