



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr David Vaisey

v

PTM International Ltd

Heard at: Watford (by CVP)

On: 6 May 2022

Before: Employment Judge Alliott

Appearances

For the Claimant: In person

For the Respondent: Did not attend

JUDGMENT

The judgment of the tribunal is that:

1. The claimant's claim is dismissed.

REASONS

1. This is a full merits hearing listed for 3 hours. The respondent is not in attendance. I do not have the file and so cannot check service on the respondent. The claimant tells me it comes as no surprise that the respondent is not in attendance. Given that there is a preliminary issue relating to the time of presentation of the claim, I decided to proceed to deal with the preliminary issue in the absence of the respondent as it is a matter that the claimant has to deal with.
2. The claimant brings a claim for accrued holiday entitlement not taken at the date of termination of his contract of employment.
3. The claimant resigned his employment with effect on 17 October 2020. The respondent asserts it was on 16 October 2020. Either way the 3-month period for bringing a claim would have expired on 16 January 2021.
4. The ACAS early conciliation certificate shows that the date of notification was 17 January 2021 and the date of the certificate is 28 February 2021.

As the primary limitation period expired before 17 January 2021, so the period of early conciliation does not extend time. Even if it did, the claim should have been presented before 28 March 2021.

5. The claim was presented on 28 June 2021. It is therefore in excess of 6 months late.
6. The claimant told me the delay was because the respondent strung him along with excuses and he was unaware of the 3 month time limit. However, he told me that once he went to ACAS he was told that he had to issue proceedings within a month of the certificate. He said that it wasn't as he mislaid documents and forgot about the matter.
7. I have concluded that the claimant's ignorance of time limits was unreasonable as he could easily have researched the issue online, especially if he was being strung along. Consequently, I find that it was reasonably practicable for the claim to be presented in time. Even if it wasn't, I find that it was not presented within a reasonable time thereafter as 4 months elapsed after he became aware of the need to issue proceedings from ACAS.
8. Accordingly, the claim is struck out as I have no jurisdiction to hear it.

Employment Judge Alliott

Date: ...6 May 2022.....

Sent to the parties on:

.....
For the Tribunal Office