



EMPLOYMENT TRIBUNALS

Claimant: Louise Davey

Respondent: Alliance in Partnership

Heard at: Birmingham (remote hearing)

On: 13 July 2022

Before: Judge Bennett

Representation

Claimant: Not present or represented

Respondent: Ms Moncrieff (solicitor)

JUDGMENT

The Claimant's claim of unauthorised deduction from wages is not well founded and is dismissed.

REASONS

1. The Claimant represented herself in this claim. She notified the Tribunal on the morning of the hearing that she would not be attending the hearing. I decided to proceed with the hearing in her absence pursuant to Rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.
2. In reaching my decision I took into account all of the evidence before me including the evidence submitted by the Claimant the day before the hearing and in particular the representations made by her in an email to the Tribunal dated 7 July 2022 in which she explained her reasons for the lateness of her claim.

Findings of fact

3. The Claimant's employment ended on 31 August 2021.
4. In accordance with s23(2) of the Employment Rights Act 1996 an Employment Tribunal shall not consider a complaint for unauthorised deductions from wages unless it is presented before the end of the period of three months beginning with the date upon which the alleged deduction occurred, or in the case of a series of deductions, the last deduction in the series.

5. The date by which the Claimant was required to present her claim to the Tribunal (or start early conciliation proceedings with ACAS) was therefore 30 November 2021.
6. The Claimant did not in fact contact ACAS or the Tribunal until she initiated early conciliation proceedings on 12th April 2022, which was more than 4 months after the relevant time limit.
7. The Claimant was asked by the Tribunal on 22 June 2022 to, within 7 days, provide reasons for the delay in submitting her claim. This request was repeated on 7 July 2022 and the Claimant did not clarify the reasons until 7 July 2022.
8. The Claimant was aware of the 'unpaid overtime' issue for a significant period of time before she left employment with the Respondent. There is reference in her email to the Tribunal dated 17 June 2022 to it coming to light when a new employee started after the TUPE transfer in 2010. When discussing the chain of events she also states "I have since left the company".
9. I find that part of the Claimant's reason for not bringing her claim sooner was because she was attempting to resolve matters informally with the Respondent. She did not however raise a formal grievance at any time.
10. The Claimant refers in her email to the Respondent dated 8 April 2022 to her 'union representative'. I find that she could reasonably have contacted this representative at an earlier date and that had she done so she would likely have become aware of the relevant time limits for submitting a Tribunal claim.

Conclusions

The Claimant's claim is significantly out of time. Even though the Claimant was representing herself in these proceedings, and I appreciate the complexities of the Tribunal process for an unrepresented Claimant, I consider that it was open to her to more promptly take steps to establish what was required of her in order to bring a Tribunal claim.

Regardless of any substantive merit of her claim, I do not consider that it was not reasonably practicable for the Claimant's complaint to be presented within the relevant time period and I therefore have no option but to dismiss her claim for want of jurisdiction.

Employment Judge **Bennett**

Date: 13 July 2022