



EMPLOYMENT TRIBUNALS

London South Employment Tribunal (video) on 14th April 2023

Claimants: Eduardo Miranda Perez
Adam Wawruszak
Luis P M Mendes Da Luz
George Koulouris

Respondent: Gatwick Ground Services Limited

Open preliminary hearing

Before: Judge M Aspinall (sitting alone as an Employment Judge)

Appearances: Mr E Miranda Perez (in person)
Mr A Wawruszak (in person)
Mr G Koulouris (in person)
Ms E Grace (Counsel for Respondent)

JUDGMENT WITH REASONS

1. The claims for unlawful deduction from wages, summarised below, in respect of three claimants were made out of time. The Claimants have not satisfied the Tribunal that there was sufficiently good reason for the delay, nor that the claims were made as soon as reasonably practicable after the limitation period expired.
2. The claims made by Mr Miranda Perez, Mr Wawruszak, Mr Koulouris are all dismissed as they are out of time and the Tribunal lacks jurisdiction to consider them.

Reasons

3. Claims of the kind brought by the claimants, for alleged unlawful deduction from wages, must be brought before the expiry of 3 months from the date on which the unlawful deduction, or a series of unlawful deductions, takes place.
4. For Mr Perez, his claim was brought 282 days after the time limit expired on 27 April 2021 in relation to his last disputed payment on 28 January 2021.
5. For Mr Wawruszak, his claim was brought 317 days after the time limit expired on 23 March 2021 in relation to his last disputed payment on 24 December 2020.
6. For Mr Koulouris, his claim was brought 329 days after the time limit expired on 11 March 2021 in relation to his last disputed payment on 12 December 2020.
7. The time limit for bringing a claim or contacting ACAS as you must do before bringing most claims, is strict. The power given to me by The Employment Rights Act 1996 to extend the time limit can only be based on the facts of whether the claims were brought as soon as reasonably practicable after the expiry of the time limit. Only if there is a

good reason why they were not brought in time and they were then brought as soon as reasonably possible, can I consider extending time for the Claimants to bring their claims.

8. The Claimant's position is that their written claim contains errors, such as the reference to raising concerns in April 2020. They say before me today that this was more likely April 2021. In fact, they argue, that it was not until October 2021 when they began to speak to other employees that they realised there may be an issue.
9. Mr Perez told me today that whilst they may have had concerns in April 2021, they were not 100% sure until they later spoke to other people in October.
10. The Respondent has taken me to the emails from the Respondent to all staff in April 2020 which confirmed that all those furloughed were to be paid 80% of their basic pay. The Claimants appear to accept that this was sent to them but cannot directly recall it.
11. Mr Perez, for himself, explained that he did not bring his claim sooner because he did not know properly whether he was correct and could not afford legal advice sooner.
12. Mr Koulouris said that he has worked in the UK for over 30 years and is not just out to make money. He explained that he did not think to look online - he does not spend time online. He did not investigate any issues with his pay when he returned to work in December 2020 when his furlough ended because there were not so many people around (eleven). He accepted that there were other people in the airport, although the airport was still very empty, but just eleven in his unit. He didn't say anything to the Respondent at that time, or until October 2021 when he had spoken to others.
13. Mr Wawrusak said that it wasn't until the middle/end of 2021, when he saw a friend from DHL (another company at Gatwick), that he realised that those working for DHL were being paid more on furlough than he was. He did not know whether this was in the law but it felt unfair. He started making enquiries in August 2020 when he first returned from furlough before being furloughed again.
14. The Claimants apologised that they issued their claims late but explain that they did not have any support from anyone. It was already too late once they discovered that there was an issue.
15. The Respondent says that the Claimants had not established a good reason for the delay. They have, with what they have said today, made their overall claim less clear. They have not suggested that there is any good reason to extend time; let alone a reason so exceptional as would be needed to get over the high bar for an extension of time (particularly given that the extensions sought in all three cases are the better part of a year).
16. I find that the evidence provided by the Claimants - and it is their burden to demonstrate to me that I should extend time - is entirely absent of any good reason to explain away the delay. I find that they were properly informed, in April 2020, of the terms on which they would be furloughed. I am satisfied that there were many, almost innumerable, avenues they could have taken to acquaint themselves of the need to make enquiries and to lodge any application to ACAS or the Tribunal in time.
17. I am not satisfied that they have provided any good reason why they did not bring their claims until 282, 317 and 329 days after the time limit required by law. Even if I was satisfied that there might have been a good reason for being beyond the time limit, I could not have been satisfied that the claims had then, in any event, been lodged in timely manner thereafter.

Judge M Aspinall
Friday, 14th April 2023