



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr R Puvaneswaran

v

Alico Petroleum Ltd

Heard at: Reading Employment Tribunal (by C.V.P.)

On: 17 May 2023

Before: Employment Judge George

Appearances

For the Claimant: Mr L Betchley, counsel

For the Respondent: Mr M Stephens, counsel

Interpreter in the Tamil language: Mrs Eesa Green

RESERVED JUDGMENT

1. The effective date of termination was 13 April 2022.
2. The employment tribunal has no jurisdiction to consider the claims of unauthorised deduction from wages and for holiday pay because they were not presented within the relevant limitation period and it was reasonably practicable to do so.
3. All claims are dismissed.

REASONS

1. On 1 March 2023 the final hearing which had been listed for 17 May 2023 was converted to a one day preliminary hearing in public by video to consider whether the employment tribunal has jurisdiction to hear the complaints.
2. Those complaints were brought by the claimant in a claim form presented on 4 October 2022 following early conciliation which lasted from 15 July 2022 until 25 August 2022. By that claim he complained of unpaid holiday pay and arrears of pay arising out of the end of his employment as a customer service champion in the petrol service station operated by the respondent. Although the claim form also indicates the claim for "other payments" none are specified in the body of the form.

3. It is the claimant's contention that his continuous employment, which started on 1 January 2021 with a predecessor employer, ended when he was informed on 26 July 2022 of his dismissal. The respondent entered a grounds of response which was presented on 11 November 2022 in which they stated that the claimant's employment ended on 13 April 2022. If that were the correct date of the end of the contract of employment and the date on which an obligation to pay wages ceased, then then, argued the respondent the claimant had contacted ACAS more than three months after the termination of his employment and presented his claim more than five months after the effective date of termination with the consequence that the employment tribunal had no jurisdiction to hear the claim. They also defended the claims on their merits.
4. For the purposes of the hearing I had an electronic file of documents which ran to 133 pages, a witness statement bundle which contained statements from the claimant and, on behalf of the respondent, statements of Wasseem Ali, Naeem Ali - who are brothers and directors of the respondent company and Jamael Thompson - a customer service assistant and former colleague of the claimant. All four statements were adopted in evidence and the witnesses were cross-examined upon them. The relevant sections of Mr Puvaneswaran's statement were translated into Tamil before he confirmed its truth and he gave evidence partly in English and partly in Tamil through the Tamil interpreter.
5. I also had an authorities bundle and outline submissions from Mr Stephens on behalf of the respondent(the RSA). Of the three short pieces of CCTV footage which I viewed, two were filmed inside a private room in the service station and one in the store room. They were played in evidence and witnesses were cross-examined upon them.
6. It became apparent during the course of closing submissions that the two counsel were not in agreement about what the limitation period would be for an unauthorised deduction from wages claim or for unpaid holiday pay claim in circumstances where the employment has ended. I experienced technological difficulties which meant that I was not able carry out necessary legal research on the matter to look up potentially relevant caselaw. It seemed to me to be fair that, after I had notified the parties of a decision on the factual matter of when the effective date of termination would be, I should formally reserve my judgement on the preliminary issue and give leave to both parties to provide short supplemental written submissions directed to when the limitation period expires for the two claims brought by the claimant: that under s.23 ERA and that under reg.30 WTR.
7. Those written submissions were received on 24 May 2023 from the respondent (RSA 2) and on 2 June 2023 from the claimant (CSA). There has then been correspondence received by a respondent's letter dated 8 June 2023 and an emailed response from the claimant on 13 June 2023 which I have considered.

The Issues and applicable law

8. The preliminary issue was to determine on the evidence whether the employment tribunal had jurisdiction to consider the claims. Those complaints were, as was common ground, holiday pay and unpaid wages. The latter could potentially either be brought under Art.7 the Employment Tribunal Extension of Jurisdiction (England and Wales) Order 1993 or under s. 23 Employment Rights Act 1996 (hereafter the ERA). There is an allegation that the claimant was owed three years' worth of holiday which was said by the claimant to have been agreed by the respondent "as the claimant was asked to work due to the shortage of staff at the company" (page 9). If the claim proceeds, a judge at final hearing would decide that factual dispute. All that would effect would be the amount of holiday carried forward so that it was outstanding at termination of employment. Such a claim could itself be brought as an unauthorised deduction from wages claim by means of a complaint under s.23 ERA or one presenting a complaint under reg. 30 Working Time Regulations 1998 (hereafter WTR).
9. The arguments about jurisdiction hinged on whether the claims had been presented within the appropriate time limits. The relevant time limits are:
 - a. In the case of the Extension of Jurisdiction Order 1994, within the period of the months beginning with the effective date of termination of the contract giving rise to the claim (Article 7 (a));
 - b. In the case of regulation 30 WTR, within a period of three months beginning with the date on which holiday should have been permitted or payment should have been made (read 30 (2) (a));
 - c. The case of unauthorised deduction from wages, for a period of three months beginning with the date of payment the wages from which the deduction was made (s.23(2)(a) ERA).
10. In each case the time limits are adjusted to take account of the effect of early conciliation. In each case, where an employment tribunal is satisfied that it was not reasonably practicable for a complaint to be presented before the end of the normal time limit then the tribunal may consider the complaint if it is presented before the end of such further period as the tribunal considers reasonable.
11. In the present case therefore I need to decide:
 - a. When the contract of employment between the claimant and respondent ended, and
 - b. When payment should have been made in respect of the sums claimed, presupposing that any sums were owed at that date.
 - c. When time starts to run in the present case for the claims which are made, and
 - d. Whether the claim had been presented within 3 months of that date (taking into account the effect of early conciliation); and

- e. If not, was it reasonably practicable for the claimant to have presented his claim form in time and was it presented within a reasonable further period.
12. The date of the effective date of termination would impact on the length of the period over which the claimant asserted he was covered by a contract of employment and should have been paid wages.
13. Mr Stephens had set out suggested issues in his RSA but the wording of the relevant statutory provisions means that his proposed issues needed to be rephrased to those in para.11 above. This was accepted by Mr Bletchley and it was apparent from the evidence in the witness statement and the joint file of documents that the parties had come prepared for a finding of fact to be made on the date of the effective date of termination.
14. The date on which time starts to run for a breach of contract claim under the Extension of Jurisdiction Order self-evidently runs from the effective date of termination. The dispute between counsel was about when time starts to run for a claim brought under s.23 ERA or reg. 30 WTR where the employment has ended but the date on which wages were payable was later than the effective date of payment.
15. Mr Bletchley argued that the wording of the statute should be applied literally. He argued that s.23(2)(a) and reg.30(2)(a) are clear and make no reference to the effective date of termination, probably because it is not uncommon for the date of payment of wages, and/or a payment in lieu of accrued but untaken holidays, to be made after the effective date of termination (for example on the normal date for payroll to be run).
16. He relied on Robertson v Blackstone Franks Investment Management Ltd [1998] IRLR 376, CA. The facts were that the claimant, who had been engaged as a self-employed consultant was paid on a commission only basis. The contract was terminated and the respondents failed to pay him commissions in respect of business which he had introduced but which had been completed after his contract terminated. He claim the unpaid commissions as unauthorized deduction from wages.
17. The Court of Appeal (Mummery LJ giving the judgment) rejected the respondent's argument that commissions payable after the termination of contract were not "wages" within the definition of the relevant section of the Wages Act 1986 which has been re-enacted as s.27 ERA. Mummery LJ said:
- "I would reject [the submission] ... that those commissions were post-termination payments payable in connection with the termination of his contract, not in connection with his employment; that they were not payable to him in his capacity as a worker, because he had ceased to be a worker on the termination of his contract; and that the commissions were not referable to work done by him as a worker.

These submissions are inconsistent with the wide definition of ‘wages’ in [s.27] as construed by the House of Lords in *Delaney v Staples* [1992] IRLR 191. The section refers to *any* sums and to *any* commission payable, without limit as to the time when it is payable or paid; the sum must be payable ‘in connection with his employment’, but the definition does not require it to be payable or paid during the currency of his contract of employment.” (original emphasis)

18. Incidentally, Delaney v Staples is also authority for the proposition that a deduction from wages includes the situation where there has been a total failure to pay.
19. Mr Stephens relies on Horwood v Lincolnshire County Council [2012] UKEAT/0462/111 the EAT where Cox J refused an appeal against a judgment that both a constructive unfair dismissal claim and an unauthorised deduction from wages were out of time on the basis that the start of the three month period within which the claim should be brought ran from the effective date of termination.
20. The facts were somewhat unusual in that the claimant resigned without notice effective on 29 January and then was told by her employer that they would treat her as employed until 2 February. Her wages for the final period up to and including 2 February were paid on 23 February. It had been argued on behalf of the claimant in that case, as by Mr Bletchley, that time for the unauthorised deduction from wages claim started to run either from 2 February, the date which her employer unilaterally decided to treat as the EDT or 23 February, the date, later in the month, when she actually received her wages from which she alleged there had been a deduction.
21. Most of the argument in the case concerns whether the effective date of termination had altered by consent on those facts. On the basis of weighty authority, Cox J held that it could not and therefore Mrs Horwood’s effective date of termination, the date on which the contract came to an end, was 29 January. The reasoning of Cox J in Horwood on the unauthorised deduction from wages claim is briefly expressed and appears to be that since the contract of employment came to an end on the effective date of termination, payments made to the claimant up to 2 February were ex gratia payments and could not form the basis of a contractual relationship between employer and employee. There was no contractual entitlement to wages and the unauthorised deduction from wages claim could not survive. The underlying dispute concerned a demotion which had been imposed as a disciplinary sanction and the unauthorised deduction from wages claim was for the reduction in salary and pension contributions from the date of the demotion and 2 February.
22. Robertson does not appear to have been cited to Cox J and there is no reference to the wording of the time limit in s.23 ERA in the judgment or to the definition of “wages” in s.27. As Mr Stephens says, Horwood is cited in a number of places in Harvey on Industrial Relations, but always in

connection with determining the effective date of termination. It is not, for example, cited in the notes to s.23(2)(a) as authority for the proposition that, where the employment has ended, the employment tribunal shall not consider a complaint under s.23 unless it is presented within three months of the effective date of termination, even if the date on which the wages were payable was later than the effective date of termination.

23. Harvey on Industrial Relations' section on unauthorised deduction from wages: 7.(2)(a) "Time limit for presentation of a claim" (para [376.02]) refers to Group 4 Nightspeed Ltd v Gilbert [1997] IRLR 398 EAT which is also relevant, indeed potentially determinative, in my view. The claimant's contract provided for payment of commission on the last day of the month following quarter in which it had been earned but in practice it was paid with the relevant month's salary which was on a date earlier in the month. The EAT held that the time limit for what is now s.23 ERA only starts to run when the employer fails to pay a sum due by way of remuneration at the contractual time for payment because it is only then that an unauthorised deduction can arise. In Group 4 Nightspeed Ltd than mean the last day of the month because that was what was contractual.
24. This does not appear to have been cited to Cox J in Horwood either. The judgment in Horwood does not address the question of when the wages became payable because the finding appears to be that they were not wages at all, not being referable to a contract of employment, at least to the extent that they were for work carried out during a time period after the contract of employment had come to an end. For that reason, there is not, in fact, a conflict between the authorities.

Findings of Fact

25. I make my findings of fact on the balance of probabilities taking into account all of the evidence, both documentary and oral, which was admitted at the hearing. I do not set out in this judgement all of the evidence which I heard but only my principle findings of fact, those necessary to enable me to reach conclusions on the remaining issues. Where it was necessary to resolve conflicting factual accounts I have done so by making a judgment about the credibility or otherwise of the witnesses I have heard based upon their overall consistency and the consistency of accounts given on different occasions when set against contemporaneous documents where they exist.
26. The claimant started his continuous employment with the respondent on 1 January 2016, latterly working as a customer service champion also acting as manager from time to time. He worked very long hours and his employment had transferred by way of a relevant transfer to the respondent company sometime in 2018.
27. The claimant gave evidence and I accept that he was last paid wages by the respondent on 5 April 2022. It seemed to be the common position of the claimant and of Waseem Ali, the director who gave evidence about

this, that payroll was run on the 4th of each month. What Mr Ali said was the payroll is run towards the end of the month; in response to a question of mine about whether a P45 had been sent to the claimant, his evidence was that it had been sent around the 4th May by post. The P45 itself is not in evidence.

28. The contract (page 27) states that the salary is paid monthly in arrears. The document itself does not specify a date by which payment would be made. The claimant's evidence leads me to the conclusion that the wages were payable on the 5th of each month for the period because that was the custom and practice followed on the account of both parties. So 5 April was the last date he was paid and 5 May would have been the first payroll date after the effective date of termination.
29. There is common ground that on 13 April 2022 there was what the respondent describes as a long meeting and the claimant as a six-hour detention during which allegations of theft were made. It is no part of today's hearing for me to determine whether they were well founded or not. The claimant's case (C para.22) was that there was no express oral dismissal communicated to him on 13 April and therefore it was only by the letter of 26 July 2022, written by the solicitors for his former employer, that he learned that they considered that they had dismissed him the previous April.
30. On the other hand, the respondent's evidence was that they told him at the end of the meeting that took place during the course of several hours on 13 April 2022 that his employment was terminated immediately and without notice for gross misconduct.
31. The claimant was arrested on 13 April 2022 and interviewed by the police. On his account he was told not to contact his employer until the internal investigation was concluded and he had no information as to what had happened; no one from the company communicated. After two months without wages he approached solicitors who wrote on his behalf (page 110). A holding response was received on 21 July 2022 and on 26 July 2022 the solicitors wrote setting out the respondent's perspective including the allegation that the claimant had been summarily dismissed in the meeting. They alleged that the claimant was not entitled to be paid wages after 13 April 2022.
32. A number of matters were drawn to my attention which it was argued on behalf of the claimant should cause me to view the evidence put forward by the respondent with circumspection. First of all, I was taken to the notes that are put forward as being contemporaneous notes that appear at page 119. It was argued that I should find that they were not, as alleged by the respondent witnesses, made during the course of the meeting.
33. It is true that both of the brothers stuck to the line that the notes had been made then and there during the course of the meeting and it seems to me that they were probably not. They do not, by the way that they are worded

appear to have been jotted notes made of the conversation as it's going along. To judge by the very short piece of CCTV footage (compared with the length of the meeting) there were other matters going on that they were engaged with in a meeting that length and they did not make a contemporaneous record of everything.

34. That is not sufficient, in my view, to cause me to think that as an account made relatively quickly after the incident it is not reliable, although the fact that they adhered to their story on this causes some concerns about their reliability as a whole.
35. I was also invited to conclude from the lack of letter of dismissal or lack of letter expressing reasons for dismissal that the dismissal had not in fact taken place. It was argued that the respondent, being an employer of some size with directors of some sophistication, it was unlikely that they would not have sent such a letter. However, I broadly accepted their explanation that they were taken aback, surprised and shocked by the experience and the scale of the wrongdoing that they consider themselves to have uncovered.
36. It was suggested that I should regard Mr Thompson's evidence with some caution and that there was reason to doubt it because he is supporting his employer.
37. On the other hand, it was argued on behalf of the claimant that there are matters that point to his version of events being essentially truthful and one that should be accepted. Those are that his account has broadly been consistent from the point of the solicitors' letter that was sent on 13 July. That letter asserts that he has not been served with notice of termination. The formal grievance put forward on 15 July 2022 complains of unfair detention and failure to pay wages as well as raising false accusations against the claimant and requests a meeting.
38. It is true that the date of dismissal set in the ET1 is that of 13 April. However, within the claim form itself there is a broadly consistent account of not knowing until the communication from the respondent's solicitors that the alleged date of termination was 13 April 2022 so I do not consider that to be determinative.
39. It is also urged in support of the claimant that he did not contact his employer because he was advised not to do so by the police. The respondent challenges this on the basis that it is contrary to the claimant's evidence that he was on unconditional bail and urges me to consider that, in fact, the claimant did not hold any such belief. However I found the claimant's evidence that he had an all too brief exchange with the legal aid criminal solicitor provided to assist him when he was under arrest to be very plausible. He may have been told was desirable not to have direct contact with his employer and the fact that he did not do so does not seem to me to be something that I should give great weight to when deciding whether to accept or reject the claimant's account that he believed his

employment to be ongoing between 13 April and 26 July 2022.

40. This comes down to a situation where the respondent states that there was a verbal dismissal in a face-to-face meeting which was not followed up with a written confirmation and the claimant denies that words of unequivocal dismissal were stated. There are matters which might be said to support the claimant and might undermine what the respondents say and the reverse is also argued.
41. Overall the points that are urged upon me as matters that should cause me to doubt the credibility of Naeem Ali and Wasseem Ali seem to me to be insufficient to undermine it. I also found Mr Thompson's account straightforward and consistent with the CCTV footage of the store room. What I saw on that was that, at one point, Mr Wasseem Ali gesticulates with his arm while holding a pair of glasses and appears to be communicating something to Mr Thompson, who then leaves the room. There is no audio. It is not definitive but it is broadly consistent with something having been communicated verbally to Mr Thompson in front of the claimant in the store room.
42. What Mr Thompson says that was is in his para.4 where he says that he heard the police officer arrest the claimant and then Wasseem Ali turned to him (Mr Thompson), while the claimant was standing next to him and informed him that the claimant had been dismissed. This suggests that the claimant had already been dismissed and Mr Thompson does not relate any dissent by the claimant on this point.
43. On the other hand, the claimant's explanations were not in my view internally consistent and did not provide a satisfactory explanation of uncontested facts. So his account of the six hour discussion did not amount to something that would justify police attendance. On the other hand, the respondent's explanation provides clear and obvious reasons why they would attend. It would be one thing for the respondent to call the police but the police would only attend and if there was a reason to do so and they seem to have arrested the claimant within a very short period of them attending.
44. There is also the question of the claimant been asked for returning the keys to the station. He acted in the capacity of manager and would not be able to carry out that role without keys. His evidence about the reasons why he took off his shirt to leave (if it were not as the respondent alleges) were vague and inconsistent. This was before the police attended. Fairly late in his evidence he brought up the possible reason for leaving of going to the bank to get change but if he was going out briefly, intending to return before the end of the working day that would not explain why he left having removed his Shell uniform.
45. The CCTV footage of that incident does seem to indicate that he originally intended to put his hoodie on over the top of the shirt and leave with the shirt under that hoodie and then removed the Shell uniform before leaving

the premises without it. That is consistent with the claimant knowing that he was leaving and not returning the same day.

46. I also find that the CCTV footage is consistent with the Ali brothers' evidence that the claimant was asked to leave the keys. The claimant's explanation that he handed them over without question because in the past he had been asked to do so and was also unconvincing. It was not something that had happened in the days or weeks immediately prior to 13 April 2022.
47. Overall, what is uncontroversial or undeniable about the events of 13 April 2022 is more consistent the respondent's witnesses accounts than with the claimant's. Similarly, the exploration by phone with Kevin Hooker that took place during the course of the meeting, the fact that they were looking at cash in the safe, these are all matters that tend to make the respondent's witnesses evidence more credible about the actions they took. I'm not deciding if their suspicions were well founded and but as a whole, I'm satisfied that on 13 April 2022 they communicated to the claimant that he had been dismissed with immediate effect.
48. In finding that, I also give weight to Mr Thompson's evidence that this was something he was directly told in the store room when he was told to go and tell other members of staff that the claimant was not to be permitted to return on site. I therefore find that the respondent by Naeem Ali told the claimant that he was dismissed with immediate effect on 13 April 2022 and that was when his employment was terminated. The effective date of termination was 13th of April.

Conclusions on the Issues

49. The claimant argues that, for the period between 06 – 13 April 2022 the Claimant was employed and the date of payment of his wages for this period, including a payment in lieu of accrued but untaken holidays, was 05 May 2022 (the next payroll date after the effective date of termination). Wages for work done before termination of a worker's contract may be payable and paid after termination without thereby losing their character as wages or becoming a payment in respect of termination of the contract under which the work was done: Robertson. The definition of "wages" in s.27 refers to any sums and to any commission payable to a worker, without limit as to the time when it is payable or paid. The sum must be payable "in connection with his employment", but the definition does not require it to be payable or paid during the currency of the worker's contract.
50. He therefore argues that the primary time limit expired on 04 August 2022. Early conciliation took place between 15 July 2022 and 25 August 2022 and the time limit therefore expired 1 month after Day B on 25 September

2022: s.207B(4) ERA. The ET1 was presented on 04 October 2022 and was therefore 9 days late.

51. The respondent argues first that the wages claim is a claim for breach of contract which, according to article 7, time starts to run from the effective date of termination. Alternatively, it is argued that the Tribunal's jurisdiction to hear a complaint of unlawful deduction is subject to s.23(2) ERA 1996. The wording confirms that time begins to run from a date on which a payment "was made" by the employer (see above). This, argues Mr Stephens, requires two events to occur. There must be a "payment of ... wages" from which a deduction "was made". The rule does not, he continues, refer to a date on which payroll would ordinarily have been run, or a date on which wages might have been paid to an employee if he had not been dismissed. The Claimant's last "date of payment" was 5 April 2022 and he does not complain that any deduction was made on that occasion. His only claim can be for days worked between 5 April 2022 and his dismissal on 13 April 2022. Horwood should be followed to find that time starts to run, whether under the Extension of Jurisdiction Order 1994 or the ERA/WTR from the effective date of termination. On that basis, ACAS should have been contacted by 12 July 2022, the claimant did not do so and does not benefit from the extension due to early conciliation so the limitation period expired on 12 July 2022.
52. Alternatively, the claim was, in any event presented late and the claimant has not shown that it was not reasonably practicable to present it in time.
53. I agree that, if the claim were made under the Extension of Jurisdiction Order 1994 then time starts to run from the effective date of termination. It seems to me that I should look to the claim for guidance on which head of claim was relied upon and, by ticking the box for "arrear of pay" the claimant has brought a complaint of unauthorised deduction from wages under the ERA. The question of time limits under the WTR are identical to those under the ERA.
54. I have found that, by reason of the usual practice, the date on which the wages were payable was the date on which they were usually paid, namely the 5th of the month following the month in which they were earned.
55. The claimant alleges that he was not paid wages for the final period of employment up to 13 April 2022. Those wages, on his case, were payable in connection with his employment within s.27(1) ERA. A total failure to pay wages falls within the concept of a deduction which is where "the total amount of wages paid on any occasion by an employer to a worker employed by him is less than the total amount of the wages properly payable by him to the worker on that occasion": s.13(3) ERA and Delaney v Staples. They do not cease to be wages simply because they are payable on 5 May 2022, after the termination of his contract of employment: Robertson. Horwood concerned a claimant who was claiming sums which were not "payable in connection with employment" and does not assist on the question of when time starts to run.

56. Furthermore, interpreting s.23 ERA as the respondent argues it should be interpreted, would require reading words into s.23(2)(a) which are not there, such as “except when the employment has ended”. As explained in Group 4 Nightspeed, it is only when the employer fails to pay a sum due by way of remuneration at the appropriate time that the claim can arise – it is only then that the claimant knows whether a deduction has been made or not. If the respondent was right, then the date on which wages were payable would change in the event that a person resigned and that would lead to uncertainty to both employer and employee.
57. The date when any deduction was made was 5 May. I accept the claimant’s arguments about the expiry of the primary limitation period. The claim was presented 9 days late.
58. It is for the claimant to show that it was not reasonably practicable for the claim to be presented in time. For the first time, in the written submissions dated 2 June 2023 claimant advances as a reason why he did not present the claim form before 25 September 2022 that there ongoing settlement negotiations which is said to have continued until 29 September 2022.
59. Objection is taken on behalf of the respondent to this line of argument on the basis that it is inappropriate to refer to without prejudice communications which are privileged. As the claimant’s representatives rightly replies, one of the exceptions to the privilege in without prejudice communications is that the fact of, but not the content of, without prejudice communications may be relied on in order to seek to explain delay.
60. However, any reason relied on to argued that it was not reasonably practicable to present the claim in time, in the alternative to the claimant’s primary argument that the effective date of termination was 26 July 2022, should have been the subject of evidence in preparation for the hearing on 17 May 2023 so that it could be tested by the respondent and the subject of submissions in the usual way. There is a procedural irregularity to seek to do so now when written submissions were only directed to whether time starts to run from the effective date of termination or the date on which wages are payable for an unauthorised deduction from wages claim.
61. Secondly, were I to entertain this argument, notwithstanding that irregularity, it was put to the claimant in cross-examination that there was no reason why he could not have filed the claim in June or July 2022 and his evidence was that he had left the case with the lawyer and she had told him at about that time that she would file the case. No reason operating on the practicability of the claimant was put forward other than that. In general, where a litigant relies upon an adviser, and that adviser fails to present in time, that does not mean that it was not reasonably practicable for the litigant to present the claim in time.
62. Finally, the existence of negotiations falls short in the circumstances of the present case of meaning that it was not reasonably practicable to present the claim by 25 September 2022. Save for the express provisions in s.207B ERA about the impact of early conciliation, the prospect of

settlement without the need for bringing a tribunal claim does not mean that there was an impediment to doing so.

63. It was reasonably practicable to present the claim in time and it was not presented in time so the Tribunal do not have jurisdiction to consider it and it is dismissed.

Employment Judge George

Date: ...16 September 2023.....

Sent to the parties on:
19 September 2023

For the Tribunal Office