



# EMPLOYMENT TRIBUNALS

**Claimant**

Mr P Edwards

v

**Respondent**

Worldwide Currencies Limited

**Heard at:** London Central by CVP  
**Before:** Employment Judge Anderson

**On:** 13 June 2024

**Appearances**

**For the claimant:** In person

**For the respondent:** L Fakunle (solicitor- Peninsula)

## JUDGMENT

1. The claimant's claim of constructive unfair dismissal is out of time and it was reasonably practicable for the claimant to have filed the claim within time.
2. The tribunal does not have jurisdiction to hear the claim and it is struck out.

## REASONS

**Background**

1. The parties attended this morning for a two day hearing of the claimant's claim of constructive unfair dismissal. It appeared to me that the claim was out of time, and I asked for the parties' submissions on this point, it not having been raised by the respondent in its grounds of response. I adjourned for a period of 45 minutes so I could read the papers for the full hearing and asked the parties to consider time.
2. Afters the adjournment Mr Fakunle for the respondent said that it was the respondent's position that the claim was out of time as the last date for filing was 21 January 2024 and the claim was filed on 30 January 2024. The claimant said that he thought he had filed in time, and he thought he had until the end of February.
3. I determined that the claim had not been filed in time and explained to the claimant that under s111 Employment Rights Act 1996 time for filing could only be extended where it had not been reasonably practicable to file on time. I heard from both parties on whether time for filing should be extended for that reason.

### Submissions

4. The claimant said he had read the CAB website which said he had three months to contact ACAS and then a further month to file a claim so he thought that was the end of February. He said that he had found the whole six months from when his problems at work arose to be difficult. He had not filed closer to the end of conciliation as it was a big step for him and he found it quite stressful and did not feel in a fit state to go through the process. Resigning was quite a big decision, and not having a job, he did not know if he had done the right thing. He said he was low and in a depressive state for a few months. He should have looked at the ET rules and ACAS rather than CAB, and at the time he was flicking through he thought he was in time.
5. Mr Fakunle said there was no reason why the claimant could not file on time. The law is set for a purpose and the claimant has failed to comply with that. He has not given any reason other than saying he was not feeling too well. The claimant relied on ACAS and CAB but we are looking at three months down the line before the claim was filed. The claimant could have asked someone.

### The Law

6. *s111. Employment Rights Act 1996— Complaints to employment tribunal*
  - (1) *A complaint may be presented to an employment tribunal against an employer by any person that he was unfairly dismissed by the employer.*
  - (2) *Subject to the following provisions of this section, an employment tribunal shall not consider a complaint under this section unless it is presented to the tribunal—*
    - (a) *before the end of the period of three months beginning with the effective date of termination, or*
    - (b) *within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of three months.*
  - (2A) *Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (2)(a).*
7. *207B Employment Rights Act 1996 - Extension of time limits to facilitate conciliation before institution of proceedings*
  - (1) *This section applies where this Act provides for it to apply for the purposes of a provision of this Act (a “relevant provision”).*

(2) *In this section—*

(a) *Day A is the day on which the complainant or applicant concerned complies with the requirement in subsection (1) of section 18A of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and*

(b) *Day B is the day on which the complainant or applicant concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under subsection (11) of that section) the certificate issued under subsection (4) of that section.*

(3) *In working out when a time limit set by a relevant provision expires the period beginning with the day after Day A and ending with Day B is not to be counted.*

(4) *If a time limit set by a relevant provision would (if not extended by this subsection) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.*

(5) *Where an employment tribunal has power under this Act to extend a time limit set by a relevant provision, the power is exercisable in relation to the time limit as extended by this section.*

### **Decision and Reasons**

8. The claimant resigned on 20 October 2023. He claims the resignation was a dismissal and for the purposes of calculating deadlines to file a claim the effective date of termination is 20 October 2023. Day A (for the purposes of s207B) is 1 November 2023 and Day B is 3 November 2023. Without any extension for ACAS conciliation the last date for filing a claim, in accordance with S111 Employment Rights Act 1996, would have been 19 January 2024.
9. S207B(3) applies and the deadline is extended by two days to 21 January 2024, being the period of time that this matter was under conciliation. S207B(4) does not apply to further extend the filing date as the filing date is more than one month after Day B.
10. The claimant's claim was filed on 30 January 2024 and is out of time. I went on to consider whether it was reasonably practicable for the claim to have been filed in time.
11. Time limits are set for a purpose and the tribunal will not extend them without good reason. The test for the extension of time is whether it was reasonably practicable to file in time. The claimant was aware of his rights to file a claim with the employment tribunal. This is clear from the fact that he engaged in early conciliation with ACAS shortly after his resignation. He has also said that he checked the CAB website for advice and that he considered whether or not to get representation. The claimant was well enough to engage with ACAS in November 2023 and it was not clear why a claim could not have been filed after early conciliation took place. The claimant said only that he

felt it was a big step. The reality is that the claimant has misread or misunderstood the information on the time limits for filing a claim in the ET on the CAB website and it was this rather than any other factors that have led to it being filed late. Where he was well enough to engage with ACAS and do his own research about employment tribunals at that time then the onus is on the claimant to have correctly identified the time limits for filing. Although he was aware there was a time limit, the claimant did not have a set date in mind, he said only that he thought it was the end of February and he still had a few weeks to spare when he did file. I accept that he was upset and feeling depressed by the loss of a job he had held for fifteen years but there was no indication from the claimant that he was incapacitated from the date that early conciliation ended until the date he filed, but rather that he had not made his mind up as to whether he wanted to file a claim.

12. In these circumstances I find that it was reasonably practicable for the claim to have been filed in time. As the claim was filed out of time the tribunal has no jurisdiction to hear the claim and it is struck out.

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Employment Judge Anderson

Date: 13 June 2024

Sent to the parties on:

18 June 2024

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For the Tribunal Office