



EMPLOYMENT TRIBUNALS

Claimant
Mr S Harker

Respondents
1. Barnmaster (Independent Wholesalers) Ltd
2. Cooper Hill Brewery Ltd

PRELIMINARY HEARING BY CVP

Heard at: Leeds by CVP On: 3 July 2024
Before: Employment Judge Davies

Appearances

For the Claimant: Mr Roxborough (counsel)
For the Respondent: Mr Mallett (counsel)

JUDGMENT

1. The claim was presented within the Tribunal time limit.

REASONS

2. The Claimant says that his employment ended on 25 July 2023. The Respondents say that it ended on 27 July 2023. He contacted ACAS to start the early conciliation process on 29 August 2023 (First Respondent) and 31 July 2023 (Second Respondent). He obtained certificates on 31 August 2023 (First Respondent) and 2 August 2023 (Second Respondent). A claim form presented on 13 September 2023 bringing claims of unfair and wrongful dismissal would therefore have been presented within the Tribunal time limit.
3. In early September 2023 the Tribunal's online claim submission service was not functioning. The Claimant's representatives tried unsuccessfully to present a claim online. In accordance with the Practice Direction on the Presentation of Claims they say that they therefore sent the claim form by post (signed for service) to the Employment Tribunal Central Office in Leicester. They produced for today's hearing a proof of posting, which included the PO Box number and postcode for the Central Office; proof of delivery, showing that the item was delivered on 13 September 2023 and signed for that day; and email correspondence with the Claimant confirming that his claim form had been presented in that way, providing him with a copy, and updating him in due course on their unsuccessful attempts to find out from the Tribunal Office what had happened to the claim.

4. No hard copy of the claim has subsequently been processed by the Central Office. Eventually, following a suggestion by the Leeds Tribunal Office, the Claimant's representatives presented a fresh claim online, referring to the fact that it had already been presented in the way described above.
5. I am entirely satisfied that a hard copy claim was properly presented to the Central Office on 13 September 2023. The evidence provided demonstrates that. The fact that the claim form appears subsequently to have gone missing does not change the position. Were it necessary to rely on it, Tribunal Rule 90 deems a document delivered by post to have been received on the day on which it would ordinarily be delivered, unless the contrary is proved.

**Employment Judge Davies
3 July 2024**