



# EMPLOYMENT TRIBUNALS

## London South Employment Tribunal 29th January 2025 (video)

**Claimant:** Odja Ilunga

**Respondent:** Portico Cooperate Reception Management Limited

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

**Appearances:** Miss O Ilunga, in person  
Mr T Pacey, Counsel for the Respondent

### Open Preliminary Hearing Judgment

The claim for unauthorised deductions from wages is out of time and is dismissed.

#### Reasons

1. Upon considering the submissions of the parties, I find that Miss Ilunga's claim for unauthorised deductions from wages relating to her June 2023 pay, due on 30 June 2023, must be dismissed as it has been brought out of time.
2. Section 23(3) of the Employment Rights Act 1996 (ERA 1996) requires that deductions claims must be brought within three months of the date the deduction occurred or termination of employment.
3. Miss Ilunga's effective date of termination was 27 July 2023, after her resignation on 28 June 2023. The alleged unauthorised deductions relate to her June 2023 pay on 30 June 2023.
4. Her claim was presented to the tribunal on 26 October 2023, which was over three months after both the date of the disputed June 2023 pay deductions and her termination date.
5. While the tribunal does have discretion under s.111(2) ERA 1996 to consider a claim out of time if it was not "reasonably practicable" to present it within three months, I do not find the test has been met here.
6. Miss Ilunga explained the delay was due to her following Portico's internal processes to attempt resolving the deductions issue. However, in line with *Palmer v Southend on Sea Borough Council* [1984] ICR 372, pursuing an internal resolution does not stop the statutory time limit running. The time limit is generally an absolute constraint.
7. Significantly, the fact Miss Ilunga was able to follow and engage with Portico's internal processes demonstrates she was aware of her rights and able to take steps to address the deductions issue. In the circumstances, she ought reasonably to have been able to ascertain

the strict time limits for bringing a tribunal claim.

8. Her failure to do so and comply with the three-month limitation period under s.23(3) should not be visited upon the respondent, who was entitled to rely on those statutory time limits being enforced.
9. In the absence of any other justification, I cannot find it was not "reasonably practicable" for this claim to have been brought in time. Miss Ilunga did not act reasonably in allowing the time limit to expire.
10. As such, I have no discretion to permit the unauthorised deductions claim to proceed, as it undisputedly falls outside the strict time limits. The claim is dismissed upon a preliminary basis.
11. This judgment does not impact the remaining claims, which proceed to the final hearing listed for 3-6 June 2025 for consideration of potential time extensions on "just and equitable" grounds. Separate case management orders will follow.

**Judge M Aspinall**  
**Thursday, 30th January 2025**

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