



EMPLOYMENT TRIBUNALS

Claimant: Mr M Forsyth

Respondent: Blueprints Housing Action Rochdale

Heard at: Manchester Employment
Tribunal (by CVP)

On: 21st March 2025

Before: Employment Judge Thompson
(sitting alone)

REPRESENTATION:

Claimant: In person

Respondent: Mr McLean, Counsel

JUDGMENT

1. It was reasonably practicable for the claimant to bring his unfair dismissal claim in time.
2. The claim is dismissed.

REASONS

3. By way of an ET1 submitted on 7th October 2024, the claimant brings a claim of unfair dismissal. The claimant was employed by the respondent from August 2016 until he was dismissed on 19th December 2023. After his dismissal, the claimant contacted ACAS and the early conciliation process

commenced on 4th March 2024. An ACAS certificate was issued on 15th April 2024. The primary time period for bringing an unfair dismissal claim expired on 29th April 2024.

The Hearing

4. The matter came before me today to consider time limit issues. The claimant represented himself and the respondent was represented by Counsel, Mr McLean. The claimant had been ordered to file any documents he wished to rely upon and to serve a witness statement by 14 days before the hearing. He did not file any documents or statement and confirmed at the start of the hearing that he did not have any documents that he wished to rely upon. The respondent filed a 42- page bundle which contained orders, correspondence and pleadings. I heard oral evidence from the claimant, and he was cross-examined by Mr McLean.

Findings of Fact

5. The claimant confirmed in his evidence that he was aware of the time limit for bringing an unfair dismissal claim. He had been made aware of this in around February 2024 by his trade union representative. The claimant confirmed that a trade union representative had assisted him with the disciplinary process before he was dismissed and had also helped him with the ACAS process and with filling in his ET1. The ET1 that has been submitted is very brief and the details of the claim at section 8.2 are only a few lines long.
6. The claimant says that the reason he delayed in submitting his claim was because he was ill. He says that he had a stroke on 19th December 2023. I accept that to be the case, and I also accept that suffering a stroke was traumatic for him and that it will have taken him some time to recover. He told me that he was in hospital until February 2024 and that he was then bed bound until May 2024. I accept that evidence. Apart from his mobility, the other physical issue that he explained to me was problems with his eyesight. He says the problems with his eyes started in March 2024 and he still has problems now. He can see but parts of his vision are limited. He did not give evidence of any other physical impairments associated with the stroke. He also said that he has had cognitive problems since his stroke. I enquired as to what the issues were, and he described that he has "*brain fog*" which he still has to this day.

The Law

7. Pursuant to section 111(2) of the Employment Rights Act 1996, a claim for unfair dismissal must be presented before the end of the the period of three months beginning with the effective date of termination or 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.
8. Illness *may* be an impediment in presenting a claim. The tribunal should take into account: (a) the nature of the illness (**Ebay UK Limited v Buzzeo EAT 5.9.2013**) (b) the effect of the illness or injury over the limitation period (**Schultz v Esso Petroleum Compnay Limited [1999] IRLR 488**) and (c) the effect of the illness on the weeks leading up to the limitation period. Medical evidence is not essential but is desirable: see **Norbert Dentressangle Logistics Ltd v Huston EAT 0011/13**.
9. In respect of the second limb of the test "*such as the tribunal considers reasonable*" the EAT in **Cullinane v Balfour Beatty Engineering Services 5 April 2011** held "*it requires an objective consideration of the factors causing delay and what reasonable period should be allowed in those circumstances for proceedings to be instituted having regard certainly to the strong public interest in claims in this field being brought promptly against a background where primary limitation is 3 months*".

Application of law to the facts

10. I am not satisfied on the basis of the evidence I have heard that the claimant was so impaired by illness that it was not reasonably practicable for him to bring the claim in time.
11. First, he was able to deal with the ACAS procedure, with the help of his trade union representative, between March and April 2024. During this period, his illness was more pronounced than it was when he submitted his ET1 in October 2024. In my judgment, there would have been a similar amount of effort involved from the claimant in giving his trade union representative the information he needed for the ACAS procedure as there was in October 2024 when the trade union representative assisted him with the ET1, particularly as the ET1 is so brief. The claimant was asked both by Mr McLean and myself how it was that he could complete the ACAS

procedure but not complete an ET1 and he was not able to provide an answer other than "*I don't know*".

12. Second, the claimant has produced no medical evidence. Whilst I do not doubt that he suffered a stroke, I have no medical evidence of the impact of that stroke on his ability to submit the ET1. The claimant did have the order inviting him to submit any relevant documents and he has not done so.
13. Third, whilst I acknowledge that it is not a requirement that the claimant produces medical evidence, the lack of any medical evidence was compounded by the claimant's vague evidence as to the exact nature of the symptoms associated with the stroke, their progression, and how they impacted on his ability to bring a claim. I do not see how prolonged immobility or issues with parts of his vision would prevent him speaking over the phone with his trade union representative (this is how the claimant says he gave instructions to him). Similarly, the brain fog that the claimant described may have prevented him at times from fully functioning, but he says he still has brain fog and I have no evidence that it would have stopped him from being able to provide the very basic information that was required to submit an ET1.
14. For all of these reasons, I am not satisfied that it was not reasonably practicable for the claimant to bring the claim in time. If I am wrong on this and it was not reasonably practicable to bring the claim in time, in my judgment a reasonable further period of time to bring the claim would not have extended to as long as 7th October 2024, as on the basis of the evidence I have heard there was no significant difference in the claimant's condition from about May 2024 to October 2024.

Employment Judge Thompson
Date 21st March 2025

ORDER SENT TO THE PARTIES ON
24 March 2025

FOR THE TRIBUNAL OFFICE

(1) Any person who without reasonable excuse fails to comply with an Order to which section 7(4) of the Employment Tribunals Act 1996 applies shall be liable on summary conviction to a fine of £1,000.00.

(2) Under rule 6, if this Order is not complied with, the Tribunal may take such action as it considers just which may include (a) waiving or varying the requirement; (b) striking out the claim or the response, in whole or in part, in accordance with rule 37; (c) barring or restricting a party's participation in the proceedings; and/or (d) awarding costs in accordance with rules 74-84.

(3) You may apply under rule 29 for this Order to be varied, suspended or set aside.

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

Public access to employment tribunal decisions

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Recording and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>