



# EMPLOYMENT TRIBUNALS

## Claimant

## Respondent

Mr Harry Stedman

v

South Stars Entertainment Limited

**Heard at:** Norwich

**On:** 4 and 5 March 2025

**Before:** Employment Judge Postle

**Members:** Mrs Costley and Mrs Laurence-Doig

## Appearances

**For the Claimant:** In person

**For the Respondent:** Ms Barlay, Tribunal Advocate

## JUDGMENT

1. The complaints of detriments on the grounds of having made a protected disclosure were not presented within the applicable time limit and it was reasonably practicable to have presented them within the applicable time limit. Those complaints are therefore dismissed.
2. The Tribunal concluded that even if we were wrong on the question of time, there was no causal link between the Claimant's alleged detriments and having made protected disclosures.

## REASONS

1. The Hearing was delayed at the outset due to IT issues with the gateway for the Cloud Video Platform. This meant that the Hearing did not start until approximately 11:30am.
2. At the outset of the Hearing Mr Stedman, the Claimant, indicated he wished to make an Application for Strike Out of the Respondent's case. The Tribunal were already on a tight schedule for the Full Merits Hearing listed only for two days. Employment Judge Postle explained if the Tribunal were to deal with the Claimant's Application for a Strike Out that might mean that the Full Merits Hearing would either go part heard and consideration would be given as to whether it would be worth starting the case at all.

3. In either circumstances that would have led to an inevitable delay in obtaining a new date for the Hearing, given the current long backlog for cases. At that point the Claimant confirmed to the Tribunal that he would withdraw his Application for Strike Out and he wanted to proceed with the Full Merits Hearing.
4. There were no other Applications outstanding before the Tribunal.

### **The Claims**

5. The Claimant brings claims that he made qualifying disclosure under s.43B(1)(d) of the Employment Rights Act 1996. In particular:
  - 5.1. During his employment he raised concerns that Mr Jack Taylor was opening packages by biting them which was a Health and Safety risk due to the possible transmission of Covid or other germs. This was raised with Sophie Edwards, Dave (surname unknown) the Park Manager and Brian Higgins.
  - 5.2. At the same time as raising concerns in 5.1 above, the Claimant raised concerns that Mr Taylor had told a child that they would die in response to the child telling him that they had a wheat allergy. When raising his concerns, the Claimant said that he did not think the comment was made in jest and that he thought the comment was inappropriate.
6. Both the alleged disclosures occurred in or about 4 April 2022. The Claimant alleges that he suffered detriment following the termination of his employment by the Respondents.
7. What this case is not about, is the Claimant suffered discriminatory dismissal, or his dismissal was automatically unfair for making the protected disclosures and suffering detriments during the course of his employment as they were clearly struck out before Employment Judge Curtis on 21 October 2024, leaving the Tribunal also to consider whether the current claims were out of time.
8. In this respect see Employment Judge Curtis' Judgment at pages 49 – 55 of the Hearing Bundle.

### **Evidence**

9. In this Tribunal we heard evidence from the Claimant through a prepared Witness Statement, together with an amended Witness Statement.
10. For the Respondents we heard evidence from Miss Chadwick, HR Manager with the Respondent.
11. The Tribunal also had the benefit of a Bundle of documents consisting of 194 pages.

## The Law

### *Time Limits*

12. Section 48(3) of the Employment Rights Act 1996 makes it clear and provides,
  48. Complaints to Employment Tribunals
    - (3) An Employment Tribunal shall not consider a complaint under this section unless it is presented-
      - (a) before the end of the period of three months beginning with the date of the act or failure to act to which the complaint relates or, where that act or failure is part of a series of similar acts or failures, the last of them, 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 the period of three months.
13. That of course is subject to s.207B of the Employment Rights Act 1996, allowing extension of time in relation to ACAS Early Conciliation.
14. It is indeed a high hurdle for a Claimant to overcome the burden of showing it was not reasonably practicable to present a claim in time. That then imposes a duty upon a Claimant to show precisely why it is that he, or she did not present their complaint within the time limit. Even if the Claimant satisfies a Tribunal that a presentation in time was not reasonably practicable, that does not automatically decide the issue in his or her favour. The Tribunal must then go on to decide whether a claim was presented within such further period as the Tribunal considers reasonable.
15. As to the meaning of “reasonably practicable”, judicial attempts to establish a clear, general and useful definition of reasonably practicable have not been particularly successful. However, in Palmer and Anr. v Southend on Sea Borough Council [1984] ICR 372, the Court of Appeal conducted a general review of the Authorities and concluded that reasonably practicable does not mean reasonable, which would be too favourable to employees and does not mean physically possible which would be too favourable to employers. It means something like reasonably feasible. The relevant test is not simply a matter of looking at what was possible, but to ask whether on the facts of the case as found, it was reasonable to expect that which was possible to have been done.
16. It would appear that the last detriment the Claimant has relevant to this Respondent was in September 2023.

17. The claim was filed on 29 February 2024 following Early Conciliation on 12 January 2024 and concluding with a Certificate being issued on 29 January 2024.
18. It is therefore the case that the claim was filed outside the primary limitation period and is therefore out of time.
19. The Claimant appears to argue a detriment on 3 October 2023, but that falls within another company, not the Respondent's company, in particular Park Holidays UK Limited which is an entirely and clearly separate legal entity being a client of South Stars Entertainment Limited which is a Recruitment Agency providing entertainment staff only to Park Holidays UK Limited.
20. The Tribunal noted the Claimant has brought previous claims before the Tribunal against other companies and those have been in time. There is a whole host of information on the internet and the Government Website about the need to bring claims within the three month period. The Claimant has not advanced at this Tribunal Hearing any reason to say why it was not reasonably practicable to have issued the claim within time.
21. The Tribunal repeat, the onus is on the Claimant to show why it was not reasonably practicable and the Claimant has failed to do so. Therefore the claims are out of time and are dismissed.
22. However, even if the Tribunal were wrong, the Tribunal nevertheless goes on to decide whether the alleged disclosures amounted to a disclosure of information under what the Claimant advances is Health and Safety, in particular Section 43B(1)(d).
23. The question therefore arises, did the Claimant believe the disclosure of information was made in the public interest and was that belief reasonable? Did the disclosures tend to show that the health and safety of an individual had been, was being or was likely to be endangered?

### **The Facts**

24. The Respondent is a provider of entertainment services / staff. The Claimant was employed by the Respondent from 4 April 2022 until his dismissal on 20 April 2022. He was employed in the capacity of Activities Team Member. The Claimant was employed at the Broadland Sands Holiday Park at Lowestoft. The Claimant was dismissed, page 62 of the Bundle), from that role because he failed his probation following a number of complaints against him from staff and clients at the Broadland Sands Holiday Park.
25. In particular, Sophie Edwards reported that the Claimant had been rude to guests and staff, she stated he was making members of her Team feel uncomfortable to the point they have to leave the room, that he had personal hygiene issues and that he talked poorly to guests about Team members. There was a general theme coming from colleagues.

26. In relation to the alleged comments made by Jack Taylor to a child following the announcement that the child had a wheat allergy, his response allegedly was "you will die". Mr Taylor was subsequently spoken to and there appeared no complaints from the child's parents and that was the end of the matter.
27. Likewise the allegation he was opening packages with his teeth and biting them, again he was spoken to and that was the end of the matter.

## **Conclusions**

28. It is arguable whether the alleged disclosures do amount to alleged disclosures envisaged by the act. There is no doubt the Claimant believed the disclosure of the information was in his mind in the public interest. The Tribunal have grave doubts whether that belief was reasonable and whether it really tended to show that the Health and Safety of an individual had been, was being, or was likely to be endangered.
29. Once again, the Tribunal assuming all of those conditions for protected disclosures are met on detriment, there is no evidence that Kelly Garrett in August 2023 denied having previously said at a meeting in May 2022, that she would have the Claimant back in a heart beat if Mr Taylor left. That simply does not stack up with the facts and the reason for the Claimant's dismissal. Particularly the evidence of Miss Chadwick that having reviewed the Minutes of the meeting between the Claimant and Miss Garrett, she was satisfied no offer of re-employment was made, only that the Respondents had contracts with other Parks not owned by Parks Holiday and that clearly was not an offer of re-employment of the Claimant.
30. As regards the second and third detriment, namely that between August 2023 and the filing of the ET1 Claim Form, the Respondents gave different reasons for refusal of re-hire. The Tribunal repeats, there is no causal link between the alleged disclosure and refusal to re-hire. It is quite clear that the reason the Respondents would not re-hire the Claimant is set out by Miss Chadwick in her letter to the Claimant, page 92,

"I've taken the time to review your emails and requests and I understand you have applied for a role as a Park Star Entertainer for the season 2023. We are fortunate to have many applicants for our entertainment and activity positions each year and these roles are allocated accordingly by the regional team, those chosen during the recruitment process. To reiterate what Miss Garrett has advised you have been unsuccessful in your application on this occasion.

In response to your questions from previous emails, I can confirm that applicants will only receive a response once a decision has been made, it was the case in Miss Garrett's response to yourself. To confirm we are under no legal obligation to respond to applicants who have been unsuccessful.

You were dismissed from your role at Broadlands Sands in April 2022 during your probationary period. The probationary period is an opportunity for both the employer and employee to establish suitability for the role. If either party is seen or felt to be unsuitable for any reason, they have the right to terminate the employment. During and following your time with us, we had complaints from several staff members regarding your attitude and work ethics. Following a meeting you had with our Head of Department, it was decided that on this occasion, the job role wasn't suitable or fit for you, we are legally within our rights to do during this time. Your contract was terminated on 20 April 2022 with immediate effect and I can confirm that you were paid up until 1 May 2022. Legally a reason for the dismissal does not have to be provided during this period, but I hope this clarifies the situation further."

31. The above is clearly the reason for dismissal and had absolutely nothing to do with any alleged public interest disclosure.
32. The Claimant's claims that he suffered a detriment for making public interest disclosure fail in any event, notwithstanding they are out of time as well.

**Approved by:**

Employment Judge Postle

Date: 18 - 03 - 2025

Sent to the parties on: 30 March 2025

For the Tribunal Office.

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