



## EMPLOYMENT TRIBUNALS (SCOTLAND)

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**Case No: 8001490/2024 Hearing by Cloud Video Platform at Edinburgh on 10  
and 11 February 2025**

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**Employment Judge: M A Macleod**

**Mr F Frulio**

**Claimant  
In Person**

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**Spire Global UK Limited**

**Respondent  
Represented by  
Ms J Charamboulos  
Consultant**

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### JUDGMENT OF THE EMPLOYMENT TRIBUNAL

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**The Judgment of the Employment Tribunal is that the claimant's claim fails,  
and is dismissed.**

### REASONS

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1. The claimant presented a claim to the Employment Tribunal on 19  
September 2024 in which he complained that he had been unlawfully  
deprived of arrears of pay by the respondent.
2. The respondent resisted the claimant's claim, and submitted an ET3 setting  
out its response.

3. A Hearing was listed to take place by CVP on 10 and 11 February 2025. The claimant, who is resident in the United States of America, was able to appear by remote means, and acted on his own behalf. The respondent was represented by Ms Charamboulos.
- 5 4. A bundle of documents was presented to the Tribunal. The respondent sought to add documents which had not been included in the original bundle by reason of “oversight”, and which included documents which the claimant wished to have available. After some discussion, I allowed the respondent to include those additional documents to the bundle, notwithstanding the  
10 unsatisfactory explanation for the late inclusion of a significant number of documents in breach of the Tribunal’s Order, on the basis that I considered it in the interests of justice to have available all potentially relevant documents for this Hearing.
- 15 5. A further difficulty arose shortly before the Hearing was due to commence at 10am on 10 February because the office at Melville Street, where I was sitting, required to be evacuated owing to a fault with the fire alarm system. As a result, the Hearing began, with the gracious consent of the parties, at 11am.
- 20 6. The claimant gave evidence on his own account. The respondent called one witness, Theresa Condor-Platzer, their Chief Executive Officer, who gave evidence from Munich, in Germany.
7. Based on the evidence led and the information presented, the Tribunal was able to find the following facts admitted or proved.

### **Findings in Fact**

- 25 8. The claimant, whose date of birth is 20 February 1964, commenced employment with the respondent on 28 November 2022, as General Manager and Global Head of Space Services Division. The respondent’s Space Services Division ran a constellation of satellites collecting and selling data on weather and maritime information. The claimant was  
30 recruited in order to bring extensive business experience to the company

and to manage different function areas, including sales, production, marketing, programme management and sales engineering. He had to create organisational structures, recruit new staff, take responsibility for sales but also carry out other functions such as marketing and attending conferences to speak on behalf of the company. He described himself as the "face of the company" with dignitaries.

9. The claimant was employed on a United States contract from November 2022, and in March 2023 was provided with a Contract of Employment (50ff).

10. The contract provided, at clause 3.1, that the claimant's employment was estimated to commence on 6 March 2023.

11. The claimant's primary place of work was Skypark 6, 64-72 Finnieston Square, Glasgow, though he may be required to work elsewhere or from home.

12. The remuneration provisions of the contract were set out at Clause 7.1 to 7.8. His salary was £253,000 each year. Clause 7.6 referred to the "Performance Bonus Structure", and provided as follows:

*"You will be eligible for an annual performance bonus plan based on (i) company performance and (ii) individual goals defined by the Company. The annual on target bonus will initially be 60% per year and prorated for year one based on your start date. The annual company targets and individual performance goals will be set and subject to change on an annual basis. Should the Company adopt a Company-wide bonus plan, you will be subject to that plan consistent with other employees at your level."*

13. The claimant's evidence was that when he was interviewed, he asked Tim Braswell, Head of People, about the bonus scheme. He said that moving to the UK from the USA was likely to be costly for him and his wife, and that he wanted an assurance that if a bonus was payable, it would be paid. He asked Mr Braswell whether the bonus was ever not paid, to which he said "no". The bonus was paid in 2022.

14. On 4 January 2023, Mr Braswell had also written to the claimant (70) to confirm the details of “certain equity compensation awards” for which the claimant was to be eligible based on the anticipated services he would provide to the Company.
- 5 15. The respondent produced a document entitled “Employee Short-Term Incentive Plan”, effective as at 1 January 2023 (71ff), which was said to be the plan under which annual cash bonus awards may be provided to eligible employees.
- 10 16. This document was said to have been approved by S16 Officers on 1 May 2023 (74). The claimant pointed out, several times, that he had not signed the document, though there was no signing schedule attached to the document requiring anyone to sign it. When asked if it was applicable to him, the claimant he did not know where the document resided, that he did not have intimate knowledge of the document, and that there was no  
15 suggestion that it was shown to him. He did say that he had not seen the document but recognised that it appeared to be about the bonus.
- 20 17. The document confirmed that *“As set forth in this Plan, the grant of Awards is within the discretion of the Company’s Chief Executive Officer, Chief Legal Officer, or Chief Financial Officer...of the Company’s Board of Directors...and the payment of these Awards is subject to several contingencies, including the attainment of performance goals approved by the Authorized Officers that are based on the performance measures described below.”*
- 25 18. The performance measures were set out in paragraph 3 of the document, essentially relating to (a) the performance of the company against its own targets and (b) the assessment of an individual’s manager of that individual’s achievement against individual goals for the relevant performance period.
- 30 19. Under paragraph 8 (Administration), it was said that the Authorized Officers retained the power to make awards and determine to whom such awards should be made, and in what form, amount and other terms and conditions

of each award. The determinations of the Authorized Officers in the administration of the Plan were said to be final, binding and conclusive.

20. It is said (74) that *“The Plan and all determinations made and actions taken pursuant to the Plan shall be governed by the laws of the State of Delaware without regard to its conflicts-of-law principles, and shall be construed accordingly.”*

21. The claimant carried out the duties of his role during 2023. He had weekly one-to-one meetings with Ms Platzer, which, together with his appraisals, were positive and complimentary to him in relation to his performance. No copies of any appraisals were produced to the Tribunal.

22. On 6 November 2023, Peter Platzer, then CEO of Spire Global, wrote to the claimant together with the remainder of the leadership team (79). In that letter he wrote:

*“Team,*

*As we carry forward down the path to profitability as a public company, it is important that we are laser-focused on reaching our financial milestones. Meeting and exceeding our quarterly growth and revenue targets stated to the public and the Board are critical.*

*While our overall objectives remain on track, our execution and performance in the last three quarters has been a challenge.*

*During Q3’23 we had an opportunity to have a terrific quarter with our Revenues and recover some ARR lost in earlier quarters. However, we missed our ARR commitment to the street by \$5m, missed bookings by \$2m and missed recognising revenues that were in our grasp by \$5m.*

*As the Board members made clear to me in our recent board meeting, our annual performance bonus plan is designed to reward for both company and individual performance, with specific financial achievement metrics in place. We as the leadership team are collectively responsible for driving the*

*company's performance and are awarded accordingly based on the company's performance.*

5 *As a leadership team, we must take responsibility for this outcome. For this reason, all our anticipated performance bonus payouts, including mine of course, for the 2023 financial year, will be suspended for now.*

10 *We have to relentlessly focus on execution and deliver a fantastic Q4 and start into 2024. This is entirely in our control. We cannot miss Q4 bookings, revenues and margin commitments. There is no more important moment for us than right now – to own the profitability challenge, to collaborate as one leadership team in achieving our goals, and to share collective accountability for the results. And then enjoy the professional and financial rewards of achieving our goals as one team.*

*As always, feel free to reach out to me or any other eStaff member with any questions you have.*

15 *Cheers,*

*Peter”*

23. The claimant noted that the letter stated that the bonus payment would be “suspended for now”, not terminated or cancelled. His understanding was that the bonus would not be paid in February 2024, but that it would still be paid. He sought to discuss matters with Theresa Platzer, Mr Platzer’s wife, to express his concerns about the bonus payment.

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24. On 3 January 2024, the claimant wrote to Theresa Condor-Platzer and Peter Platzer (80):

*“Peter and Theresa:*

25 *Happy New Year! I hope that you are as excited about 2024 as I am. I am confident that we have laid a strong foundation in the Space Services organisation in 2023 for success in the new year and beyond! I am 100% committed to Spire.*

There is, however, one obstacle that presents a challenge for me that I would like to ask your support in resolving. It is of a personal nature, but it is directly related to work. When I took the position at Spire, I accepted a lower base salary than my previous role, knowing there is potentially substantial upside with our stock when we achieve our potential. I understood at the time that I would be 'cash flow negative' for at least the first year predicated on my base salary, the increased tax burden of living in the UK, and the additional cost of living to maintain two homes – our house in the US (which we recently had custom-built), as well as domicile in Glasgow. But I knew that I would start to close the gap once bonuses were paid.

When it was announced that bonuses were to be suspended, it created a sense of panic, knowing that I could no longer afford to work at Spire. I completely understand the rationale behind the decision, and I support the move. It makes perfect sense. And I am not requesting an exception, as that becomes a slippery slope. I am a team player. But the reality is that I can't put my family in a position where I am actually 'paying' to work. This has been quite anxiety provoking. I want to be a part of Spire's success over the long term. My initial thought was that I would have to seek employment elsewhere, but as opportunities were presented to me, I found myself uninspired. I am loyal by nature, and I made a commitment to Spire, as well as to the people that I brought with me, and I want to stay. So I shifted my focus to exploring other possible solutions. Then it came to me.

I would like to request to move back to the US on a US-based contract. By doing so, it would have an immediate 30% net positive impact on my cash flow. And in addition to the personal financial benefit, it will also help me to be better at my job. For starters, I would still like to work out of the Glasgow office for 4-5 months per year, spread out over the year. I would, of course, cover my own living expenses during my time in Glasgow. I am able to do this on a US contract, without paying UK taxes, provided it is less than six months in a calendar year. It would also afford me the ability to spend significantly more time in the DC office (I'm thinking 2-3 months per year cumulative), where I have several key personnel. It will allow for more time

*with Brennan, and given that our biggest issue in 3S is sales, that time will be well spent focused on sales efforts.*

*Being in Glasgow this past year has played an integral role in me learning the business, the product, the processes, and most importantly, the people.*

5 *The relationships I have formed are strong and intact. I have also spent considerable time developing Michael and Ross as leaders of the business, so there would be no leadership void by my absence. By moving forward with this plan, I will still be a frequent presence in Glasgow, and will also be a presence in DC. It will give me more time with the sales team (I have zero*  
10 *salespeople in Glasgow), and of course, I can even spend more time in APAC as we grow that business. This isn't about being less present to the business – it's about being present in more places.*

*The 3S team, our customers, and our prospects are spread out across the globe, unbounded by geography. This reflects two of Spire's core values:*  
15 *'We are Global' and 'We are Unbounded'. I am respectfully seeking your support in my request to truly 'be global' and 'be unbounded'.*

*Thank you for your consideration.*

*Frank"*

25. Reference to "3S team" is a reference to the Spire Space Services team,  
20 which the claimant led.

26. On 2 April, the claimant forwarded his email to Mr Braswell, who said that he would take the matter to Ms Condor-Platzer and Mr Platzer. No change in the respondent's position came about as a result of any approach made by Mr Braswell.

25 27. The claimant did not receive a written response to his email of 3 January 2024.

28. He had regular one-to-one meetings with Mrs Condor-Platzer and raised his proposal to move to the United States and be based there while continuing in employment with her, and also when bonuses would be paid. His

evidence was that he was told that the bonuses would be paid to the leadership team mid-year, that is, in June or July 2024, though he felt that it was unclear. The claimant understood that the company had overcommitted itself to lenders, and that they required to take time to resolve those covenants before the bonuses could be paid. Once the covenants were met, the claimant's understanding was that the "purse strings could be loosened".

29. On 9 July, the claimant was invited to a meeting with Mrs Condor-Platzer. They spoke on a call, and the claimant was advised that the Space Services unit was being shut down. While on the call, the claimant noticed that all his services were shut down, and he was unable to have access to any information on the respondent's system. Immediately following that call, the claimant received a letter from the respondent (81) which confirmed that the respondent had decided to terminate his employment on the basis of a notice period of 90 days starting on 9 July 2024, during which he would be placed on gardening leave.

30. The claimant did not receive a bonus in relation to his performance in 2023. He maintained that he was entitled to 60% of his base salary, which would amount to £151,800.

31. He argued that while the company's performance may have been poorer than expected, he was not responsible for this. He maintained that he had delivered sales of over £200 million worth of products, but that the company did not receive payment for the products as they were defective.

32. The respondent produced a document ("3S Metrics Dashboard")(86) which set out the bookings achieved by the claimant against the budgeted targets. They maintained that this showed that the claimant's total bookings for 2023 show a "miss" of 37%, or \$13.9 million to budget; and a total revenue miss of 43% or \$10.9 million to budget. Again, the claimant's position was that the bookings were based on the failings of the missions which could not be delivered to the customers. He did not accept that he had missed his

targets. The manufacturing team were responsible for the building of the satellites, and failed to deliver functional satellites.

### Submissions

5 33. The parties made short oral submissions, which the Tribunal has considered and taken into account in reaching its decision. Where relevant, reference is made to those submissions in the Discussion and Decision section below.

### The Relevant Law

10 34. The claimant complains of unlawful deductions from wages under Part II of the Employment Rights Act 1996 (ERA).

35. Section 13 of ERA provides:

*“(1) An employer shall not make a deduction from wages of a worker employed by him unless—*

15 *(a) the deduction is required or authorised to be made by virtue of a statutory provision or a relevant provision of the worker’s contract, or*  
*(b) the worker has previously signified in writing his agreement or consent to the making of the deduction.*

20 *(2) In this section “relevant provision”, in relation to a worker’s contract, means a provision of the contract comprised—*

*(a) in one or more written terms of the contract of which the employer has given the worker a copy on an occasion prior to the employer making the deduction in question, or*

25 *(b) in one or more terms of the contract (whether express or implied and, if express, whether oral or in writing) the existence and effect, or combined effect, of which in relation to the worker the employer has notified to the worker in writing on such an occasion.*

30 *(3) Where the total amount of wages paid on any occasion by an employer to a worker employed by him is less than the total amount of the wages properly payable by him to the worker on that occasion*

*(after deductions), the amount of the deficiency shall be treated for the purposes of this Part as a deduction made by the employer from the worker's wages on that occasion."*

36. Section 27(1) of ERA provides:

5       *"In this Part 'wages', in relation to a worker, means any sums payable to the worker in connection with his employment, including –*

*(a) any fee, bonus, commission, holiday pay or other emolument referable to his employment, whether payable under this contract of otherwise..."*

### **Discussion and Decision**

10       37. No List of Issues was produced by the parties in relation to this Hearing, but it is plain that the claim made by the claimant was that the respondent unlawfully deprived him of a bonus payment in respect of 2023 by failing to pay him that bonus, which amounted to £151,800.

15       38. It is important to observe that the claim does not extend beyond this complaint. There is no claim of unfair dismissal, nor any claim related to the claimant's dismissal.

39. Fundamentally, the question for determination by the Tribunal is whether or not a bonus for the year 2023 was "properly payable" by the respondent to the claimant.

20       40. In his contract of employment, the respondent provided the following at clause 7.6:

25       *"You will be eligible for an annual performance bonus plan based on (i) company performance and (ii) individual goals defined by the Company. The annual on target bonus will initially be 60% per year and prorated for year one based on your start date. The annual company targets and individual performance goals will be set and subject to change on an annual basis. Should the Company adopt a Company-wide bonus plan, you will be subject to that plan consistent with other employees at your level."*

41. There are a number of points about this provision which require to be addressed.

42. Firstly, there was a dispute as to whether or not there was any significance in the statement that the claimant was eligible for an “annual performance bonus plan”, as opposed to an “annual performance bonus”. It seems to me that there is no significant difference between the two statements. A bonus plan is, in simple terms, a description of the arrangements which an employer puts in place for the payment of bonuses to eligible staff. In this case, the bonus arrangement was one which applied to the senior management team. Ms Condor-Platzer confirmed that she, for example, did not receive a bonus in respect of 2023, and that to her knowledge neither did any of the other senior managers, including the claimant. A performance bonus plan was in place at the time of the claimant’s recruitment and the execution of his contract of employment; that much is clear from the sentences which follow in the clause. The annual “on target bonus” would be initially 60% per year. While it does not specify that it would be 60% of base salary, it is reasonable, in my judgment, to infer that that was the meaning. Certainly, the respondent did not appear to dispute that that was what was meant by that provision.

43. Secondly, it is clear from the clause that the payment of a bonus was based on company performance and individual goals defined by the company. To that extent the payment of a bonus was dependent on the performance of the company. It is not entirely clear from the terms of the clause whether that meant that the amount of the bonus would be dependent upon the performance of the company and the individual concerned, or that the bonus itself would only be paid based upon the performance of the company and the individual goals.

44. The clause does not make clear the extent to which the bonus may vary according to performance, and does not spell out what variation in company or personal performance would have upon the amount of or entitlement to the bonus.

45. Thirdly, the terms of the bonus plan are subject to the future adoption of a “Company-wide bonus plan”. This is important, as we will see, since such a bonus plan was subsequently adopted by the respondent.

5 46. Those being the terms of the written contract of the claimant (to which he expressly agreed by his signature on the contract), there was other evidence which requires to be addressed by the Tribunal.

47. The claimant said that in his interview with the respondent, he asked if the bonus was always paid in the past, and was told that it was. He relies upon this as an assurance that he would be paid his bonus. In my judgment, such  
10 an assurance, relating to past events, cannot be taken as an assurance, beyond the terms of his contract as above, that he would certainly receive a bonus each year when employed by the company.

48. Then, in November 2023, the then CEO, Mr Platzner, wrote to the leadership team explaining that due to the challenges of the company’s performance,  
15 *“all our anticipated performance bonus payouts, including mine of course, for the 2023 financial year, will be suspended for now.”*

49. That was a clear statement to the claimant, and others, that the 2023 bonus payments were being “suspended for now”. The claimant did not appear to be surprised by this conclusion, and in his email of 3 January, he wrote  
20 *“When it was announced that bonuses were to be suspended, it created a sense of panic, knowing that I could no longer afford to work at Spire. I completely understand the rationale behind the decision, and I support the move. It makes perfect sense.”*

50. Clearly, while it created a personal difficulty for the claimant, he did not  
25 dispute the rationale of the respondent in making the decision, to by stating that he supported the move, he accepted the decision to suspend the bonus payment for 2023.

51. His solution was to alter his working arrangements by allowing him to move back to the United States, a solution which was, it appears, not accepted by

the respondent. The claimant continued to work for the respondent until his employment was terminated on 9 July 2024.

52. Accordingly, as at 3 January 2024, the claimant accepted that the bonus payment for 2023 would be suspended for now. He stressed in his evidence before me that this phrase “suspended for now” did not amount to a cancelation of the bonus, but merely a temporary hold placed on it. He believed that it would still be paid, and that that statement did not mean that he would not receive it.

53. It is my interpretation that the use of the phrase “suspended for now” was intended to tell senior managers that they would not receive their bonuses at the scheduled time. While it is correct to say that the phrase suggests that this will be temporary, and does not exclude the possibility that the bonus would be paid, the respondent did not indicate that it would certainly be paid in the future, nor did they state when the suspension of the bonuses would be lifted. The reason for suspension was that performance during 2023 had not met the company’s expectations.

54. A further development took place in May 2023 with the introduction of the Employee Short-Term Incentive Plan, approved on 1 May and backdated to 1 January 2023.

55. The claimant’s position on this document was that he had not seen it nor signed, and accordingly had not agreed to its terms. Mrs Condor-Platzer’s position was that the bonus was discretionary. She gave no evidence, and was not asked by either party, about the terms of this document. She considered that the original contract made clear that the bonus was discretionary.

56. There is a peculiarity about the Employee Short-Term Incentive Plan, which is that it is said to be subject to the laws of the State of Delaware.

57. I did hear evidence from the claimant about the Plan, both in chief and under cross-examination by Ms Charamboulos. He sought to deny that he had seen the document, but conceded that the document was “interesting,

and lays out the legal position for the respondent to say what's payable". He went on to argue that there were other considerations, both ethical and moral, whereby a company should not ask a candidate to move countries to Glasgow and then not pay a substantial portion of their salary to them.

5 58. The Tribunal's jurisdiction is restricted to the legal aspects of this case, and ultimately not to the moral or ethical considerations which parties may put forward.

10 59. In my Judgment, the Employee Short-Term Incentive Plan amounted to a "company-wide bonus plan", and was thus imported into the claimant's contract of employment by reference. Its importance is that it affirmed the respondent's position that the payment of a bonus was a discretionary matter in the hands of the "Authorized Officers", authorised by the Board of the respondent to decide these matters.

15 60. The claimant sought to argue that since the company's fortunes have improved in 2024, especially following his dismissal, that would then enable the company to release the funds for payment of the 2023 bonus. I accept the respondent's contention that bonuses are not paid on the basis of affordability but on performance in the year in question. If performance in 2024 were better, that would then affect the decision-making process about the payment of bonuses in 2024, which is not a matter under consideration in this claim.

20 61. He also argued that in his frequent one-to-one meetings with Mrs Condor-Platzer, she told him that the bonus would be paid mid-year in 2024. However, his evidence on this point was slightly unclear. Very fairly, he said that he did not want to remember precise statements incorrectly, but said that it was his interpretation of what he was told that the bonus would be likely to be paid mid-year in 2024. Mrs Condor-Platzer was not asked in detail about whether or not she made any specific commitment in these conversations, but she did say that individual performance was a moot point because the company performance had been below expectations for 2023. I

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am not persuaded that Mrs Condor-Platzer made any commitment to the claimant that he would be paid his bonus in mid year 2024.

5 62. Drawing together all of these points, the claimant has, in my judgment, been unable to prove that the bonus he sought in respect of 2023 was “properly payable” under his contract of employment. He sought payment of his entire bonus in his claim, though in evidence conceded that if there were any issue about his performance he may be prepared to accept a slight reduction from 100%.

10 63. In my judgment, the payment of a bonus to the claimant was discretionary, and in the hands of the respondent, based on the performance of the company as well as of the individual. The respondent made clear in November 2023 that the company’s performance had fallen below the level sought by the Board, and as a result, no bonus was to be paid at that stage, and it was suspended. The claimant accepted that that was a reasonable  
15 position for the respondent to adopt at that stage, in his email of 3 January 2024.

64. It appears, from the evidence, that that suspension was never lifted by the respondent.

20 65. It is extremely unfortunate that the respondent has not communicated more clearly about this matter with the claimant than they have. Saying that the bonus payment was “suspended for now” raised an expectation in the mind of the claimant, reasonably in my view, that at some point it might be paid; however, that falls short of a commitment made on behalf of the respondent that the bonus for 2023 would be paid. The other evidence led by the  
25 claimant does not persuade me that the respondent ever told the claimant that he would certainly be receiving his bonus, in full or otherwise, for 2023, and since the performance of the company was below the standards expected for 2023 (something accepted by the claimant) their explanation is supported by the evidence. Further, there was evidence that the claimant’s  
30 own performance had fallen well below the targets set. The claimant clearly disputed that or sought to explain this by pointing to failings by other

departments in the delivery of functioning satellites, which meant that while he achieved high sales, those sales were not implemented because the buyers were dissatisfied with the products delivered.

5 66. Notwithstanding that, it is my conclusion that the claimant has failed to prove that he has suffered an unlawful deduction from his wages by the non-payment of his bonus for 2023. It is clear that none of the senior leadership team were paid their bonus for that year, which is consistent with the position taken in relation to the claimant.

10 67. It is plain that the claimant feels a strong sense of injustice that he took a job which had a lower base salary than he would have wanted, on the basis that he expected a bonus to be paid at a high percentage of base salary, but reviewing the contractual obligations of the respondent, it is clear that the payment of the bonus is a discretionary matter to be based on company as well as personal performance.

15 68. In these circumstances, it is my finding that the respondent did not unlawfully fail to pay the claimant a bonus in respect of 2023.

69. As a result, the claimant's claim fails, and is dismissed.

20 70. The respondent raised the question of time bar in this Hearing. Owing to the finding I have made on the merits, I do not consider it necessary to go into detail about that matter, other than to make the following observation. The bonus would normally have been payable in February 2024 in relation to the previous year, 2023. While the claimant presented his claim outwith the 3 month statutory deadline for the submission of such a claim to the Tribunal, from the date when the bonus would have been expected to be payable, it is important to recall that the respondent told him in November 2023 that the payment was suspended for now. He waited, understandably, for confirmation that the bonus was either going to be paid or would not be paid, and that period of waiting lasted, in my judgment, to the end of his employment on 9 July 2024. As a result, I am not persuaded that it would be  
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30 in the interests of justice to find that the claim was in fact time-barred.

**Date sent to parties**

**2 April 2025**