



EMPLOYMENT TRIBUNALS

Claimant: Mr S Iqbal
Respondent: Uber London Limited

PUBLIC PRELIMINARY HEARING

Heard at: East London Hearing Centre
On: Thursday 1 May 2025
Before: Employment Judge S Shore

Representation

For the Claimant: In Person
For the Respondent: Ms K Davis (Counsel)

JUDGMENT

- (1) The correct name of the respondent is Uber London Limited, and the Tribunal's records are amended accordingly.
- (2) The claimant's claim of unfair dismissal under section 94 and section 95(1)(c) of the Employment Rights Act 1996 ("ERA 1996") is struck out as having no reasonable prospect of success because:
 - 2.1. The claimant was not an employee of the respondent as defined in section 230 of the Employment Rights Act 1996.
 - 2.2. The Tribunal had no jurisdiction to hear the claim because the claim was not presented within the prescribed time limit in section 111(2) of the Employment Rights Act 1996 and the claimant did not prove on the balance of probabilities that it was not reasonably practicable to have brought the claim in time.
 - 2.3. The claimant did not have the requisite length of continuous

service of two years required by section 108(1) of the ERA and his claim was not one that did not require two years' service as set out in section 108(3) of the ERA.

- (3) The claimant's claim of breach of contract (failure to pay notice pay) under Article 3 of the Employment Tribunals Extension of Jurisdiction (England & Wales) Order 1994 ("the Order 1994") is dismissed upon his withdrawal of it.
- (4) The claimant's claims of unauthorised deduction from wages (and the failure to pay holiday pay) under section 13 of the ERA 1996 are dismissed upon his withdrawal of them.
- (5) The claimant's claim for a statutory redundancy payment under section 135 of the ERA is dismissed upon the claimant's withdrawal of it.
- (6) The claimant's intimated claim under the National Minimum Wage Act 1998 is dismissed upon his withdrawal of it.

REASONS

Background

- 1. The claimant's employment status has been in dispute since the respondent presented its ET3. The claimant began as a driver for the respondent in August 2022 and it was agreed that the respondent terminated his engagement on 5 December 2022 [15].
- 2. The claimant started early conciliation with ACAS on 18 September 2024 and obtained an early conciliation certificate [2] on 7 October 2024. He presented his claim form (ET1) to the Tribunal on 1 November 2024 [3-16].
- 3. The claimant's ET1 was not entirely clear as to his claims, but the Tribunal recorded claims of unfair dismissal, breach of contract (failure to pay notice pay), failure to pay a redundancy payment and failure to pay holiday pay.
- 4. On 16 December 2024, the Tribunal issued a Notice of Claim and Notice of Hearing [17-21]. The Notice of Hearing set up a final hearing in person at East London Tribunal Hearing Centre for two days on 1 and 2 May 2025.
- 5. The respondent presented its response form (ET3) on 13 January 2025 [22-35]. In its Grounds of Resistance, the respondent raised the jurisdictional issues of the claimant's status (he was alleged not to be an employee) and the late presentation of the ET1.
- 6. On 7 February 2025, the respondent applied [36-38] to convert the final hearing into a preliminary hearing to determine the time limit point. The Tribunal replied on 3 April 2025 [39] to indicate that the application could be heard at the final hearing.

7. On 12 April 2025, the respondent wrote to the Tribunal [41-42] (copying in the claimant) indicated that it would not be ready for a final hearing and reiterated its request for the hearing on 1 May to be converted to a Public Preliminary Hearing (PPH).

The Hearing

8. Both parties attended at the Tribunal on the morning of 1 May 2025. I asked the Tribunal Clerk to advise them that I was minded to deal with the PPH and then do any case management that may be required.
9. The respondent had produced a bundle of 42 pages for the hearing. If I refer to any pages in the bundle I will indicate the relevant page numbers from the bundle in square brackets.
10. The claimant is unrepresented. I reminded him that the Tribunal operates on a set of Rules (I have set out the link to those Rules below). Rule 3 sets out the overriding objective of the Tribunal Rules (their main purpose), which is to deal with cases justly and fairly. It is reproduced here:

Overriding objective

3.— (1) *The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.*

(2) *Dealing with a case fairly and justly includes, so far as practicable—*

(a) ensuring that the parties are on an equal footing,

(b) dealing with cases in ways which are proportionate to the complexity and importance of the issues,

(c) avoiding unnecessary formality and seeking flexibility in the proceedings,

(d) avoiding delay, so far as compatible with proper consideration of the issues, and

(e) saving expense.

(3) *The Tribunal must seek to give effect to the overriding objective when it—*

(a) exercises any power under these Rules, or

(b) interprets any rule or practice direction.

(4) *The parties and their representatives must—*

(a) assist the Tribunal to further the overriding objective, and

(b) co-operate generally with each other and with the Tribunal.

11. I explained to the claimant that we were unable to hear the whole case in a final hearing as neither he or the respondent had produced any witness statements or a full bundle of documents. I also explained what the PPH entailed and how we would conduct the hearing. By hearing the PPH, we would be complying with the overriding objective by avoiding wasted time and cost.
12. The claimant then gave evidence in chief on affirmation by setting out his claim orally. During his evidence, the claimant confirmed that he was owed no money by the respondent on the termination of his engagement on 5 December 2022, so had no claims of unauthorised deduction from wages, holiday pay, notice pay redundancy payment of any breach of the National Minimum wage Act 1998. All those claims were withdrawn. The claimant confirmed that his only claim was for unfair dismissal and the financial losses that flowed from the dismissal. I agreed the issues in the case with the parties during Mr Iqbal's evidence.
13. The claimant was asked cross-examination questions by Ms Davis. I asked a question. The claimant ended his evidence at 11:05am.
14. Ms Davis then made closing submissions for 15 minutes. I gave Mr Iqbal the opportunity to make closing submissions, but he was happy for me to make my decision. I adjourned the hearing at 11:20am to make my decision and asked the parties to return at 12:00pm. We restarted at 12:05pm and I delivered my judgment and reasons orally. Mr Iqbal asked for the reasons to be put in writing. Hearing ended at 12:15pm.
15. I granted the respondent's application to strikeout the claimant's case.

The law

16. For the purposes of the unfair dismissal claim, the relevant sections of the ERA 1996 are section 98, section 108, section 111(2), and section 230.

Section 98 Employment Rights Act 1996

(1) In determining for the purposes of this Part whether the dismissal of an employee is fair or unfair, it is for the employer to show-

(a) the reason (or, if more than one, the principal reason) for the dismissal, and

(b) that it is either a reason falling within subsection (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.

(2) A reason falls within this subsection if it-

(a) Relates to the capability or qualifications of the employee for performing work of the kind which he was employed by the employer to do,

(b) Relates to the conduct of the employee,

(c) Is that the employee was redundant, or

(d) is that the employee could not continue to work in the position which he held without contravention (either on his part or on that of his employer) of a duty or restriction imposed by or under an enactment.

(3) In subsection (2)(a)—

(a) “capability”, in relation to an employee, means his capability assessed by reference to skill, aptitude, health or any other physical or mental quality, and

(b) “qualifications”, in relation to an employee, means any degree, diploma or other academic, technical, or professional qualification relevant to the position which he held.

(4) Where the employer has fulfilled the requirements of subsection (1), the determination of the question whether the dismissal was fair or unfair (having regard to the reason shown by the employer)-

(a) depends on whether in the circumstances (including the size and administrative resources of the employer’s undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and

(b) shall be determined in accordance with equity and the substantial merits of the case.”

17. Section 108 deals with the required length of service:

108 Qualifying period of employment

(1) Section 94 does not apply to the dismissal of an employee unless he has been continuously employed for a period of not less than two years ending with the effective date of termination.

(2) If an employee is dismissed by reason of any such requirement or recommendation as is referred to in section 64(2), subsection (1) has effect in relation to that dismissal as if for the words two years there were substituted the words “one month”.

(3) Subsection (1) does not apply if—

(aa) subsection (1) of section 98B (read with subsection (2) of that section) applies,

(b) subsection (1) of section 99 (read with any regulations made under that section) applies,

- (c) subsection (1) of section 100 (read with subsections (2) and (3) of that section) applies,*
- (d) subsection (1) of section 101 (read with subsection (2) of that section) or subsection (3) of that section applies,*
- (dd) section 101A applies,*
- (de) section 101B applies,*
- (e) section 102 applies,*
- (f) section 103 applies,*
- (ff) section 103A applies,*
- (g) subsection (1) of section 104 (read with subsections (2) and (3) of that section) applies,*
- (gg) subsection (1) of section 104A (read with subsection (2) of that section) applies,*
- (gh) subsection (1) of section 104B (read with subsection (2) of that section) applies,*
- (gi) section 104C applies,*
- (gj) subsection (1) of section 104D (read with subsection (2) of that section) applies,*
- (gk) subsection (1) of section 104F (read with subsection (2) of that section) applies,*
- (gk) section 104E applies,*
- (h) section 105 applies,*
- (hh) paragraph (3) or (6) of regulation 28 of the Transnational Information and Consultation of Employees Regulations 1999 (read with paragraphs (4) and (7) of that regulation) applies,*
- (i) paragraph (1) of regulation 7 of the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 applies,*
- (j) paragraph (1) of regulation 6 of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 applies,*
- (k) paragraph (3) or (6) of regulation 42 of the European Public Limited-Liability Company Regulations 2004 applies;*
- (l) paragraph (3) or (6) of regulation 30 of the Information and Consultation of Employees Regulations 2004 (read with paragraphs (4) and (7) of that regulation) applies,*

(m) paragraph 5(3) or (5) of the Schedule to the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 (read with paragraph 5(6) of that Schedule) applies,

(n) paragraph (a) or (b) of paragraph 13(5) of Schedule 6 to the Employment Equality (Age) Regulations 2006 applies,

(o) paragraph (3) or (6) of regulation 31 of the European Cooperative Society (Involvement of Employees) Regulations 2006 (read with paragraphs (4) and (7) of that regulation) applies,

(p) regulation 46 or 47 of the Companies (Cross-Border Mergers) Regulations 2007 applies, or

(q) paragraph (1)(a) or (b) of regulation 29 of the European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009 (SI 2009/2401) applies, or

(q) paragraph (1) of regulation 17 of the Agency Workers Regulations 2010 applies.

18. Section 111(2) deal with time limits in unfair dismissal claims:

“... an employment tribunal shall not consider a complaint ... unless it is presented to the tribunal -

(a) before the end of the period of three months beginning with the effective date of termination, 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 that period of three months.”

19. Section 230(3) of the Employment Rights Act 1996 (“ERA 96”) provides in part;

230 Employees, workers etc.

(1) *In this Act “employee” means an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment.*

(2) *In this Act “contract of employment” means a contract of service or apprenticeship, whether express or implied, and (if it is express) whether oral or in writing.*

(3) *In this Act “worker” (except in the phrases “shop worker” and “betting worker”) means an individual who has entered into or works under (or, where the employment has ceased, worked under) —*

(a) a contract of employment, or

- (b) any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual; and any reference to a worker's contract shall be construed accordingly.*

The issues

20. The issues in the case were:

1. Employment status

- 1.1 *Was the claimant an employee of the respondent within the meaning of section 230 of the Employment Rights Act 1996?*

2. Time limits

- 2.1 *Was the unfair dismissal claim made within the time limits in section 111 Employment Rights Act 1996? The Tribunal will decide:*

- 2.1.1 *Was the claim made to the Tribunal within three months (plus early conciliation extension) of the effective date of termination (5 December 2022) ?*
- 2.1.2 *If not, was it reasonably practicable for the claim to be made to the Tribunal within the time limit?*
- 2.1.3 *If it was not reasonably practicable for the claim to be made to the Tribunal within the time limit, was it made within a reasonable period?*

3. Length of service

- 3.1 *Did the claimant have two years' continuous employment with the respondent as at the date of alleged effective date of termination (5 December 2022);*
- 3.2 *Was the claim one that does not require two years' continuous service under section 110(3) of the ERA?*

4. Unfair dismissal

- 4.1 *Was the claimant dismissed?*
- 4.2 *If the claimant was dismissed, what was the reason or principal reason for dismissal?*
- 4.3 *Was it a potentially fair reason?*

4.4 *Did the respondent act reasonably in all the circumstances in treating it as a sufficient reason to dismiss the claimant?*

Findings of Fact

Preliminary Comments

21. All findings of fact were made on the balance of probabilities. If a matter was in dispute, I will set out the reasons why I decided to prefer one party's evidence over the other. If there was no dispute over a matter, I will either record that with the finding or make no comment as to the reason that a particular finding was made. I have not dealt with every single matter that was raised in evidence or the documents. I have only dealt with matters that I found relevant to the issues I have had to determine. No application was made by either side to adjourn this hearing to complete disclosure or obtain more documents or call additional evidence, so I have dealt with the case based on the documents produced to me, the witness evidence produced, and the claim as set out in the List of Issues.

Facts

22. I make the following findings of fact:
- 51.1. The claimant began work with the respondent in August 2022 and his engagement was ended on 5 December 2022.
 - 51.2. The claimant started early conciliation with ACAS on 18 September 2024 and obtained an early conciliation certificate on 7 October 2024 [2]. The claimant presented his ET1 to the Tribunal on 1 November 2024 [3-16].
 - 51.3. No documents were produced (letters, emails, messages etc.) that contained any details of the terms of the agreement between the parties.
 - 51.4. On 2 December 2022, the claimant icked up a fare. The fare complained to the respondent about the claimant's conduct. The respondent switched off the claimant's access to its app. On 5 December 2022, the respondent wrote to the claimant to terminate his driver terms with Uber [15].
 - 51.5. The claimant tried to contact the respondent to dispute the termination of his terms without success. He says he made no enquiries about starting Employment Tribunal proceedings but confirmed that he had asked his daughter to help him with technology from time to time. He did not ask any family member to help him.
 - 51.6. The claimant says he joined a trade union about 1 to 3 months after 5 December 2022, but the union told him that the respondent was above the law and would not respond. He says he was not told about the Employment Tribunal or any time limits.

- 51.7. The claimant went to see his MP in April 2024. The MP wrote to the respondent, which replied on 17 June 2024. At that point, the claimant started to make enquiries online, where he found ACAS and started early conciliation.

Employee/Worker Status

52. The burden of proof is on the claimant to show that he was an employee.
53. We find that the claimant's evidence in chief on the issues of whether he was an employee of the respondent lacked any detail and specificity. The claimant's assertion about his status was:
- 53.1. He had learned about the Supreme Court decision in **Uber BV and others v Aslam and others** UKSC/2019/0029. I find that the claimant had no knowledge of what the decision meant. He did say he understood that the Supreme Court decided that Uber drivers were workers.
54. I take judicial knowledge of the fact that Uber drivers were found to be workers, not employees by the Supreme Court and that the position has not changed since that decision was made.
55. I find that the claimant accepted that he had been engaged by the respondent for approximately four months between August and December 2022.
56. I find that the claimant was not an employee of the respondent as defined in section 230 of the ERA.
57. I find that the claimant had insufficient service to bring a claim of unfair dismissal and did not suggest that he had a claim that did not require him to have two years' continuous service.

Time Limits

58. The burden is on a claimant to show that their claims was presented in time. The findings of fact made above are repeated here.
59. Under the authority of **Northamptonshire County Council v. Entwistle** [2010] IRLR 740 (para 5, per Underhill LJ), if the claimant ought reasonably to have known of their right to claim, it will probably be held that it was reasonably practicable to present a claim within the time limit, whether they in fact knew of the right or not. See **Porter v. Bandridge Ltd** [1978] 1 WLR 1145.
60. The question of what the substantial cause of the failure to present the claim within time was, and whether there was any "substantial fault" on the part of the claimant to the meaning of "*not reasonably practicable*", is one of fact for the ET. Whether something is 'reasonably practicable' is "*a concept which comes somewhere between whether it is reasonable and whether it is physically capable of being done*" (per HHJ Shanks, **Stratford on Avon DC v. Hughes** [2020] 12 WLUK 628). The burden of proof is always on the claimant, who must convince the tribunal that they

fall within the exception to the general rule that claims are to be presented within the allotted time.

61. I find that the claimant has a smart phone because he mentioned it in his evidence. I find that it is almost inconceivable that someone with a smartphone would not make enquiries about what they could do if they had suffered the injustice that the claimant perceived that he had been subjected to. His failure to make any enquiries until summer 2024 does not mean that his prior failure was because it was not reasonably practicable to present the claim before he did.
62. The claimant admitted speaking to a Trade Union and his MP but denied that they had given any information about a Tribunal claim. I find that unlikely.
63. Typing “unfair dismissal” into a search engine brings up the Gov.uk website on your rights. It was as simple as that. The claimant was able to contact ACAS and start early conciliation when he put his mind to it, but I find his failure to put his mind to it before September 2024 to be a fatal flaw in his case.
64. I also find that the delay between obtaining a conciliation certificate on 7 October 2024 and presenting his ET1 on 1 November 2024 was not reasonable.
65. I find that all the claimant’s claim was presented out of time when it was reasonably practicable for him to have presented it in time. The claimant cannot benefit from the ASAC EC extension.

Summary

66. The claimant was not an employee of the respondent. He did not have sufficient service to bring a claim of unfair dismissal even if he was an employee and his claim was submitted late.
67. I understand why the claimant feels that he was treated unjustly by the respondent but even if the claimant had been an employee and had presented his claim in time, he would not have succeeded in a claim of unfair dismissal on the case he presented to the Tribunal.
68. The claimant’s claim of unfair dismissal is struck out.

Employment Judge S Shore
Date: 1 May 2025