



# EMPLOYMENT TRIBUNALS

**Claimant**

A Constantinou

v

**Respondent**

Whitbread Group plc

**Heard at:** Reading by CVP

**On:** 30 April 2025

**Before:** Employment Judge W Anderson

**Appearances**

**For the claimant:** In person

**For the respondent:** L Barchet (solicitor)

## JUDGMENT

1. The claim of race discrimination was not presented within the applicable time limit, but it is just and equitable to extend the time limit. The claim of race discrimination will therefore proceed.

## REASONS

**Background**

1. The claimant was interviewed by the respondent and had a trial shift on 21 December 2023. She was advised on 30 December 2023 that her application was unsuccessful. She brings a claim of race discrimination relating to the interview process. A hearing was listed to decide the preliminary issue of whether the claim was brought in time.

**The Hearing**

2. The parties filed a joint bundle of documents, and the claimant filed a witness statement. The claimant gave evidence on oath and both parties made oral submissions.

**Law, Decision and Reasons**

3. The relevant law on time limits is found at s123 of the Equality Act 2010.

*Subject to section 140B proceedings on a complaint within section 120 may not be brought after the end of—*

*(a)the period of 3 months starting with the date of the act to which the complaint relates, or*

*(b)such other period as the employment tribunal thinks just and equitable.*

4. In considering whether it is just and equitable to extend time I need to consider a number of factors including the length of the delay and the reasons for it, how the delay might have prejudiced the respondent's ability to defend the claim, the prejudice to the claimant in being time barred from bringing her claim and I should include a consideration of the merits of the claim. This list is not exhaustive and no one factor is necessarily more important than another.
5. The claimant filed a claim in the employment tribunal against the respondent on 11 June 2024, claiming discrimination on the grounds of race. The incidents complained of took place during 21 to 30 December 2023. ACAS was contacted on 11 March and conciliation ended on 22 April 2024. The deadline for filing the claim was 22 May 2024. The claim was filed 20 days out of time.
6. The claimant suffers from ADHD. She was diagnosed on 20 February 2024. She said in cross examination that she knew after conciliation ended that she had a month to file the claim and genuinely believed she had filed in time. She did not understand that she had failed to do so until the case management hearing on 31 January 2025. The claimant said that it is because of ADHD that she became confused. She did not know that she had failed to meet the deadline at the time and had not made a diary entry as until recently she thought she could manage without such steps but was now aware that she could not. There was evidence in the bundle that she has a diagnosis of ADHD.
7. In her witness statement the claimant said that her claim is valid and deserves consideration on its merits.
8. Ms Barchet said, for the respondent, that the claimant has simply given no reason as to why the claim was not filed in time. She knew the deadline and had given no clear explanation of what had happened after conciliation ended, and up until the 11 June 2024, which would show why the claim was late. Ms Barchet said that the respondent acknowledged that it was three months out of time and not twelve months, but it was not just and equitable to extend where no reason was given.
9. I have considered the claimant's explanation for filing late. She gave clear and honest answers to the questions put to her and has tried to explain why she failed to act. I do not accept that she gave no explanation. I accept that she was aware of the deadline and believed she had met it. I accept her evidence that the reason she was wrong, was to do with the way in which she is impacted by ADHD.

10. Where the delay is less than three weeks, there is no prejudice to the respondent in answering the claim other than the fact of having to answer a claim that is outside of the usual time limits. Ms Barchet made no submissions on merit. Indeed, there was no evidence before me that would have enabled me to consider merit, as only the grounds of claim and response were included in the bundle.
11. No other matters were brought to my attention and it is my view that in the circumstances, where I accept the claimant's evidence that her ability to comply with the deadlines was affected by her ADHD, where if I decided not to extend time, the claimant would lose the opportunity to bring her claim of race discrimination, and where there is no forensic prejudice to the respondent, it would be just and equitable to extend time for the filing of this claim to 11 June 2024.
12. Time for filing the claim is extended to 11 June 2024.

Approved by:

Employment Judge W Anderson

Date: 30 April 2025

Sent to the parties on: 21 May 2025

For the Tribunal Office