EMPLOYMENT TRIBUNALS

Claimant Mrs E L Carpenter (nee Spanswick)

Respondent Seasalt Limited

Heard at: Exeter (remotely by video hearing) **On:** 15 May 2025

Before:
Employment Judge Goraj

Representation

The claimant: in person (supported by her husband)

The respondent: Mr R Moore, counsel

RESERVED JUDGMENT FOLLOWING A PRELIMINARY HEARING

THE JUDGMENT OF THE TRIBUNAL IS that: -

1. The claimant's complaint of unfair dismissal was not presented to the Tribunal within the statutory time limit contained in section 111(2)(a) of the Employment Rights Act 1996 as extended by section 111 (2A) / 207B of the Employment Rights Act 1996.

2. It was not however, reasonably practicable for the complaint to have been presented by the end of such period and the complaint was

presented within such further period as the Tribunal considers reasonable for the purposes of section 111 (2) (b) of the Employment Rights Act 1996.

3. The Tribunal therefore has jurisdiction to determine the claimant's complaint of unfair dismissal which will proceed to a final hearing as separately directed/ advised.

REASONS

CONDUCT OF THE HEARING

1. The hearing was conducted as a remote public preliminary hearing to which the parties consented. The claimant, who was accompanied by her husband, represented herself at the hearing. The respondent was represented by counsel, with his instructing solicitors also in attendance.

INTRODUCTION

2. By a claim form and attached particulars of claim, which were presented to the Tribunals on 19 July 2024, the claimant, who was employed by the respondent from on or around 18 October 2017 until 4 March 2024, brought a complaint of unfair dismissal. The claimant's claim form named three respondents namely,(1) Seasalt Limited (2) Seasalt Ltd and (3) Seasalt Cornwall. The claimant named three respondents on her claim form as she was uncertain at the time of presenting her claim as to the correct name of her employer.

3. The claimant notified the Tribunal on 20 September 2024 of her change of surname to Mrs Carpenter, following her marriage, and the pleadings have therefore been amended accordingly.

4. By a response form and attached grounds of resistance which were presented to the Tribunals on 18 October 2024, the respondent denied the allegations. The respondent further contended, as preliminary matters, that :- (a) the correct respondent was Seasalt Limited and (b) the claims against all three respondents had been presented outside the relevant statutory time limits and should therefore, in any event, be dismissed. The respondent contended in respect of Seasalt Limited, that the claimant had contacted ACAS on 24 May 2024 and received her ACAS EC Certificate on 11 June 2024 so that the last date upon which she could present her claim against that respondent to the Tribunals was 11 July 2024 pursuant to section 207 B of the Employment Rights Act 1996 ("the Act").

The claimant's ACAS EC Notification

5. The records show that the claimant first contacted ACAS for the purposes of early conciliation in respect of Seasalt Ltd on 30th April 2024 and that the associated ACAS EC certificate (R 170487/24/45) was issued on 11 June 2024 (page 60 of the bundle). The records further show that in respect of both the respondent and Seasalt Cornwall, ACAS received the claimant's EC notification on 24 May 2024 and that the ACAS EC certificates were both issued on 11 June 2024. The ACAS EC certificates for the respondent (R183923/24/80) and for Seasalt Cornwall (R183924/24/71) are at pages 62 and 61 respectively of the bundle.

The correct name of the respondent and time issues

6. The claimant subsequently confirmed to the Tribunal that Seasalt Limited was named as her employer on her contract. The Tribunal accordingly dismissed the remaining respondents from the proceedings by a Judgment dated 23 January 2025. The matter was also listed for a preliminary hearing to determine whether the claimant's claim was out of time.

THE BUNDLE AND WITNESS EVIDENCE

7. The claimant prepared the bundle of documents for the hearing ("the bundle"). A further document was added at the request of the Tribunal namely, a letter to the claimant from the respondent dated 27 February 2024 which stated, in summary, that the claimant's employment with the respondent would terminate on 4 March 2024 by reason of (contended) redundancy. It was agreed between the parties that the claimant's employment with the respondent ended on that date and which is accordingly the effective date of termination for the purposes of section 97 of the Act.

8. The claimant submitted a witness statement and gave evidence on oath.

Legal authorities

9. Immediately prior to the start of the Hearing, the parties submitted to the Tribunal details/ a bundle of the legal authorities upon which they wished to rely as referred to further below. The Tribunal also drew the attention of the parties to a number of further legal authorities which are also referred to below.

FINDINGS OF FACT

10. The following facts are made by the Tribunal strictly for the purposes of the preliminary issue as to time limits.

Background

11. The claimant was employed by the respondent from on or around 18 October 2017 until her dismissal, for contended redundancy, on 4 March 2024. At the date of her dismissal, the claimant was employed by the respondent as a paid social media assistant manager. The claimant does not have any legal training or experience.

12. The claimant was informed at a remote meeting of on or around 23 January 2024, that her role as a paid social media assistant manager was at risk of redundancy as the respondent was creating a new role of paid social marketing manager.

The claimant's contact with ACAS and others

13. The claimant first contacted ACAS on, on or around 23 January 2024, online and by phone, at which time she was provided with general information about the redundancy process and which also included a limited summary discussion regarding time limits. The claimant was told in general terms that there was a three-month time frame minus 1 day in which to present a claim but that the time limit would pause whilst ACAS EC conciliation was in progress.

14. The claimant also sought advice from the local CAB on around 26 January 2024 however they were unable to give her any further information/ advice as the person who dealt with employment matters was absent on long term sickness.

15. The claimant contacted the ACAS help line again on 2 February 2024 at which time ACAS provided the claimant with the further links referred to at page 35 of the bundle including regarding time limits. The claimant confirmed in evidence that she looked at the links around that time but took no further action then as she was still going through the redundancy process with her employer.

16. The claimant has included in the bundle a number of screen shots which she took on 12 February 2025 from the links provided on 2 February 2024. The Tribunal has noted in particular that :- (a) on the screen shot at page 37 of the bundle which is entitled Early Conciliation - how the process works" - it states under a heading "Time limits for making a claim" that " There are strict time limits for making a claim to an employment tribunal. In most cases, you have three months minus 1 day from the date the problem at work happened" together with a further link about employment tribunal time limits.

17. The claimant has included a further screenshot at page 39 of the bundle relating to the ACAS early conciliation process including advice regarding

what to do if an agreement was not reached following conciliation . The tribunal has noted in particular the following provisions on that page (page 39 of the bundle) relating to time limits.

> "Time limits after early conciliation
>
> "You will have a minimum of 1 calendar month from the date of receipt of the certificate to make a claim to the employment tribunal.
>
> In some cases, you might have longer than one month to make a claim to the employment tribunal. Working out the exact time limit can be complicated. You might want to get legal advice.
>
> It's your responsibility to make sure you make your claim to the tribunal in time. Only a tribunal can decide whether the claim is in time or not. ACAS conciliators cannot decide or advise on this point"

18. Similar information is repeated on the screenshot at page 40 of the bundle.

19. On 27 February 2024 the claimant was informed by the respondent that she would leave the respondent on 4 March 2024 which decision was confirmed on appeal. The claimant's employment with the respondent accordingly terminated on 4 March 2024.

20. Following her departure from the respondent, the claimant contacted ACAS again who confirmed to her that the time limits for applying for a tribunal claim would pause during Early conciliation and would restart once she received the early conciliation certificates.

21. The claimant contacted a solicitor on 8 April 2024 for free preliminary advice. At this time the claimant shared some documentation and information with them and was advised to start the early conciliation process if she wanted to pursue a claim in the future. The focus of the discussion at that time was on the likely cost of obtaining legal advice and assistance to pursue a claim to the Tribunals. The claimant was advised to apply for ACAS early conciliation and there was no discussion at that time regarding any time limits for bringing her claim.

22. The claimant's mental health was fragile at that time as a consequence of multiple bereavements which was exacerbated by the emotional strain of not having her parents or paternal grandfather present at her forthcoming wedding by reason of such bereavements. The claimant, who was unemployed following her dismissal by the respondent and was living in a single income household, therefore decided to prioritise spending money on obtaining support for her medical health rather than on the cost of obtaining legal support/ advice on a tribunal claim.

The ACAS conciliation process

23. The claimant commenced the ACAS Early Conciliation process on 30 April 2024. The claimant commenced her early conciliation against Seasalt Ltd at that time as it was the name which appeared on her payslip.

24. The claimant was allocated an ACAS Conciliator on 13 May 2024. The claimant was uncertain at that time as to the identity of the correct respondent and following discussions with the ACAS Conciliator, decided to raise two further ACAS EC notifications against Seasalt Cornwall and the respondent in order to ensure that she had named the correct employer.

The conclusion of the ACAS early conciliation process

25. The ACAS early conciliation process came to an end on 11 June 2024, at which time the three ACAS certificates previously referred to above, were issued by ACAS (pages 60 – 62 of the bundle).

The email from ACAS dated 11 June 2024

26. The claimant's ACAS conciliator emailed the claimant on 11 June 2024 (page 55 of the bundle) as follows :-

" Hi Eleanor,

Without prejudice

Thanks for speaking to me just now. Please find the information about time limits:

Now that the Early Conciliation Certificate is issued, the time limit to apply to the Employment Tribunal is no longer be paused. You should have at least 30 days following the date the Early Conciliation Certificate was issued to lodge a claim. This is in addition to any time you had left from the three months minus 1 day time- frame on the date that you notified ACAS.

Please find links to information about potential sources of legal advice. Trade unions can be a source of advice if you were a member while employed. You may also want to check any car or home insurance policies as these can sometimes provide cover for legal advice."

The E-mail then contained a number of links to organisations which might be able to provide legal advice.

27. The claimant received a further e-mail from the ACAS conciliator dated 12th June 2024 (page 56 of the bundle) in which she informed the claimant that she could make a claim against any of the named

companies on her early conciliation certificates if she was not confident as to the correct legal name of the respondent.

28. The Tribunal has noted the printed statement at the bottom of the email from ACAS dated 12 June 2024 (page 56 of the bundle) which includes the following statement :-

"Should this communication contain any discussion of any legal matters, this is not to be taken as an authoritative interpretation of the law".

This statement does not however appear on the bottom of the copy email dated 11 June 2024 at page 55 of the bundle.

The post ACAS Conciliation period

29. The claimant did not present her claim form to the Tribunals until 19 July 2024. During the week of 10 June 2024, the claimant was making final preparations for her wedding on 14 / 15 June 2024 (pages 63 and 64 of the bundle). The Tribunal accepts that this was a difficult time for the claimant because of the absence of close family due to previous bereavements and that her emotional state was exacerbated further by the recent loss of her job with the respondent.

30. The claimant was subsequently away on honeymoon until 22 June 2022.

The period between 23 June 2024 and 19 July 2024.

31. The claimant presented her complaint of unfair dismissal against the three respondents identified above, to the Tribunals on 19 July 2024. The claimant did not obtain/ seek to obtain any further advice regarding her claim (including with regard to time limits) or take any further steps to pursue her tribunal claim between 23 June 2024 and 19 July 2024. The claimant told the Tribunal that she did not take any such steps at that time as it was her understanding, in the light of the information provided by ACAS in the email dated 11 June 2024 (at page 55 of the bundle), that she had until 22 July 2024 in which to present her claim of unfair dismissal to the Tribunal against the respondent and moreover, that she had until 14 August 2024 to bring her claim against Seasalt Ltd. The claimant further stated in her witness statement that she had calculated the deadline in respect of the respondent as follows:-
    (1) the initial timeline ran from 4 March 2024 (the date of her dismissal) to which she added three months minus one day making the deadline the 3 June 2024 . She further calculated that there were. 11 days between 24 May 2024 (the date of the relevant EC notification to ACAS) and 3 June 2024.
    (2) Adding 11 days from 11 June 2024 (when the relevant ACAS EC certificate was issued) meant that the adjusted deadline to start

proceedings should have been 22 June 2024. ACAS had however, also informed her that she would have 30 days in addition to the time which she had left from the three months minus one day timeframe on the date which she had notified ACAS (24 May 2024).

(3) Adding 30 days to the 11 days for the period of ACAS Early Conciliation gave a new deadline of 22 July 2024.

32. Having given the matter careful consideration, the Tribunal accepts the claimant's evidence regarding the above including, that she understood, in the light of the information contained in the email dated 11 June 2024 from the ACAS Conciliator assigned to her case (page 55 of the bundle) that she had until 22 July 2024 in which to present her claim to the Tribunals against the respondent and acted accordingly.

33. When reaching this conclusion, the Tribunal has taken into account in particular, that the claimant's stated understanding and associated actions are consistent with information provided by ACAS on 11 June 2024 (albeit that the claimant applied "the 30 day" extension first).

34. The Tribunal further accepts the claimant's evidence that she was unaware that her complaint of unfair dismissal against the respondent (or the other named respondents) was potentially out of time until on or around 16 December 2024 at which time she received a copy of the respondent's response form from the Tribunal. When reaching this conclusion, the Tribunal has taken into account that it does not appear that the Tribunal raised any issues in correspondence with the parties regarding time limits until on or around 16 December 2024 when it provided the claimant with a copy of the respondent's response form and attached particulars with its "response received "letter and gave notice of the preliminary hearing (to deal with the time issue).

THE LAW

35. The Tribunal has had regard in particular to the following statutory and associated provisions.

(1) Section 111 (subsections 2(a) and (2A) of the Act (primary time limits for presentation of complaints to an Employment Tribunal)

(2) Section 207 B (extension of time limits to facilitate ACAS early conciliation before the institution of proceedings).

(3) The legal authorities relied upon by the parties in the joint bundle of authorities provided to the Tribunal immediately prior the commencement of the hearing (insofar as they are relevant to time limits for unfair dismissal claims). The authorities referred to in the bundle of authorities are as follows:-

Dedman v British Building and Engineering Appliances Ltd [1981] ICR 121.
Gibson v British Steel [2000] IRLR 345.
Chohan v Derby Law Centre [2004] IRLR 685 (a discrimination claim).
Marks& Spencer plc v Williams Ryan [2005] IRLR 562
Hickson v East Riding of Yorkshire Council [2015] 1804768/2019.
The Sports PR Company v Cardona [2023] EAT
Ashcroft v Haberdashers Aske's Boys School [2008] ICR 613.
Northamptonshire County Council v Entwhistle [2010] UKEAT/0540/09.

(4) The further authorities raised by the Tribunal / relied upon by the respondent during the course of the hearing namely:-

(a) **Luton Borough Council v Haque 2018 ICR 1388, EAT** (concerning the application of / impact of and relationship between 207B (3) and 207B (4) of the Act on time limits) and **Tanveer v East London Bus and Coach Co Ltd 2016 ICR D11 EAT** (concerning the meaning of "one month" for the purposes of section 207B (4) of the Act. The Tribunal also drew to the attention of / sought comments from the parties on paragraphs 5.41 – 5.43 of Volume 10 of the IDS handbook (Practice and Procedure 1: Employment Tribunals) regarding the extension of time under early conciliation rules pursuant to sections 207 B (3) and (4) of the Act. The Tribunal also had regard to the extract from Tolley's which was submitted by the respondent in respect of such provisions.

(b) The Tribunal also drew to the attention of the parties the Tribunal judgment in **Drewery v Carphone Warehouse Ltd ET case no 3202059/06** and further had regard to the EAT judgment in **DHL Supply Chain Ltd v Fazackerley EAT 0019/18** (in which the **Drewery** case was considered) which was raised by the respondent during the hearing and both of which judgments concerned the giving of advice by ACAS in respect of the time frame for commencing Tribunal proceedings albeit in the pre- conciliation era.

The relevant law

36. The Tribunal has reminded itself in particular of the following :-

(1) The starting point is section 111 of the Act which provides that a Tribunal shall not consider a complaint of unfair dismissal 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"

(2) Such time limit is however subject to the application of Section 207 B of the Act (sections (207 B(2) – (4)) which provides for the extension of time limits to facilitate ACAS early conciliation before instituting proceedings.

(3) Whilst section 111 (2) (b) of the Act should be given a "liberal construction in favour of the employee" (in accordance with the guidance in **Dedman**) the onus of proving that the presentation in time was not reasonably practicable rests on the claimant. This imposes a duty on him/ her to show precisely why he/ she did not present his claim in time. The test of reasonable practicability is one of fact and not of law.

(4) The Tribunal is required to consider whether it was " reasonably feasible" for the employee to present his / her claim in time. If an employee is mistaken about when the relevant time limit expires the question is whether any such mistake is reasonable on the facts of the case including having regard to any enquiries which the employee should have made.

(5) If the employee retains a skilled adviser any mistake is normally attributable to the employee and in such circumstances a Tribunal would be unlikely to find that it was not reasonably practicable to have presented the claim in time. Much will however, depend on the circumstances and type of adviser involved and a Tribunal may be entitled to adopt a difference approach, depending on the facts of the case. The Tribunal has noted for instance, that in the EAT authority of **DHL Supply Chain v Fazackerley** (in which the EAT also considered the first instance case of **Drewery** also referred to above), the EAT declined to interfere with the decision of the Tribunal that it was reasonable in all the circumstances for the employee to act on the advice from ACAS that he should exhaust the internal appeal process before presenting his claim and that it

was not therefore reasonably practicable for him to have presented his claim within the relevant statutory time limit.

(6) If a claimant satisfies a Tribunal that it was not reasonably practicable to present the claim in time, the Tribunal is also required to decide whether the claim was, in any event, presented within such further period as the Tribunal considers reasonable in all the circumstances

SUBMISSIONS OF THE PARTIES

37. The Tribunal has had regard to the oral submissions of the parties regarding the facts and relevant law. The respective submissions of the parties are summarised with the Tribunal's conclusions set out below.

THE CONCLUSIONS OF THE TRIBUNAL

Was the Claimant's complaint of unfair dismissal presented outside the statutory time limit

38. The Tribunal has considered first whether the claimant's complaint of unfair dismissal was presented outside the relevant time limit including, whether the information provided to the claimant on 11 June 2024 by ACAS (at page 55 of the bundle) for such purposes was a correct interpretation of the law.

39. It is agreed between the parties that the effective date of the termination of the claimant's employment (for the purposes of section 97 of the Act) was 4 March 2024. The claimant was therefore required, in the absence of any extension of time by reason of her participation in the ACAS Early Conciliation process, to present her claim to the Tribunal by 3 June 2024. The claimant did not however present her claim to the Tribunal until 19 July 2024.

40. The Tribunal has therefore gone on to consider whether, having regard to the application of the ACAS Early conciliation provisions contained in section 207 B of the Act, her complaint of unfair dismissal was presented within or outside the statutory time period as extended.

41. In summary, the claimant contended that she believed at the time of presentation that it had been presented in time as it was submitted within the time frame identified in the email from ACAS dated 11 June (page 55 of the bundle) as it was presented on 19 July 2024 whereas she believed that the time limit did not expire until 22 July 2024.

42. In summary, the respondent contended that the information provided by ACAS in the email dated 11 June 2024 was incorrect and that the time limit as extended by section 207 (B) of the Act expired on 11 July 2024 rather than on 22 July 2024.

43. The respondent says that section 207 B (3) does not assist the claimant in this case as applying such provisions the claimant would only have been entitled to an additional 18 days which would have expired on 21 June 2024 (Day A – 24 May 2024 and Day B is 11 June 2024 – with the day after Day A and Day B not to be counted) The respondent further says that the application of section 207 B (4) of the Act still does not assist the claimant in this case as the maximum permissible extension pursuant to such provision is until 11 July 2024 (which is one month after Day B- namely - 11 June 2024).

44. The respondent further says that there is no statutory or other legal basis (including applying the guidance in **Haque**) for the information provided by ACAS to the claimant in the email dated 11 June 2024 namely, that the claimant was entitled to add to the 30 day period following the date of the issue of the EC certificate on 11 June 2024, (which would have expired on 11 July 2024) any additional time left from " the 3 months minus 1 day time – frame on the date that you notified ACAS"(11 days in respect of the period from 24 May 2024 when the claimant notified ACAS of her claim) and the expiry of the original time limit on 3 June 2024.

45. Having given careful consideration to all of the above, the Tribunal is satisfied that the respondent's interpretation of the law and associated calculation of the statutory time limits as set out above is correct including that the time limit expired on 11 July 2024, as contended by the respondent and not on 22 July 2024 as calculated by the claimant in accordance with the information provided by ACAS in the email dated 11 June 2024.

46. When reaching this conclusion, the Tribunal is satisfied that :-

    (1) The time limit for the purposes of section 111 of the Act expired on 3 June 2024 as the agreed effective date of termination of the claimant's employment was 4 March 2024 (3 month's minus one day).
    (2) The provisions of section 207B of the Act apply in this case as follows :-
        (a) For the purposes of section 207 B (2) of the Act, Day A is 24 May 2024 (the date that the claimant notified ACAS of the claim against the respondent) and day B is 11 June 2024 (the date upon which the relevant ACAS certificate was issued).

(b) The provisions of section 207 B (3) of the Act do not assist the claimant in this case as the "stop the clock" period for such purposes is 18 days, which takes the deadline to 21 June 2024.

(c) Further, the provisions of section 207 B (4) of the Act also do not assist the claimant in this case. Although the subsection applies in this case as the primary time limit of 3 June 2024 as extended by section 207 B (3) of the Act to 21 June 2024, falls within the period beginning with Day A (24 May 2024) and ending with one month after Day B (11 July 2024) the maximum permitted extension pursuant to section 207B (4) of the Act is to 11 July 2024.

(d) Having given careful consideration to the provisions of section 207 B of the Act (as applied above), and also the authority of **Haque** (together with the discussions on the topic in the IDS brief and Tolley's Handbook) the Tribunal is satisfied that 11 July 2024 is the latest date of extension possible in this case as section 207 B (4) specifically states that if the time limit is extended pursuant to that subsection (as is the case here) it expires "i**nstead at the end of that period"** namely one month after Day B (11 June 2024) namely 11 July 2024.

(e) Having regard to all of the above, the Tribunal is not satisfied that there is any legal basis for the method of calculation of the extended time limit as set out in the email from ACAS dated 11 June 2024 (page 55 of the bundle) namely, for the aggregation of the periods of extension identified in that email and/or, in any event, for the aggregation of the periods of extension in section 207 B (3) and (4) and that the correct analysis is as set out at (d) above.

47. The claimant's claim form was therefore presented outside the statutory time limit (3 June 2024) as extended by section 207 B (4) of the Act (to 11 July 2024) and is therefore prima facie out of time subject to the question of whether it was reasonably practicable for it to have been presented within the relevant time limit or, if not, whether it was presented within such further period as the Tribunal considers reasonable in all the circumstances, which the Tribunal has gone on to consider below.

Was it reasonably practicable for the claimant's claim form to have been presented by 11 July 2024/ was it presented within a reasonable period thereafter?

The submissions of the respondent

48. In summary, the respondent contended that it was reasonably practicable for the claimant to have presented her claim of unfair dismissal within the statutory time limit namely by 11 July 2024 however, she failed to do so until 19 July 2024.

49. The starting point on the authorities is **Dedman** namely, the principle that if a skilled adviser makes a mistake about the relevant time limit such mistake is normally attributable to the employee who is not normally entitled in such circumstances to rely on the reasonably practicable extension. The respondent further relied in particular on the later guidance contained in paragraphs 5-9 of **Entwhistle** and paragraph 13 of **Ashcroft** including that for such purposes the adviser does not have to be a solicitor or even a skilled adviser.

50. The respondent accepted however having regard in particular to **DHL v Fazackerley,** a case which related to advice from ACAS, that there may be cases where the above-mentioned principle in **Dedman** does not apply. The respondent further accepted that it was doubtful that the claimant would have an effective remedy against ACAS in respect of any erroneous information/ advice.

51. The respondent contended however, that even if the principle in **Dedman** does not apply in this case, any ignorance by the claimant of the true position regarding time limits was not reasonable as the ACAS website made it clear that the conciliator could not be relied upon to give advice. In such circumstances, the claimant should have taken further steps to obtain legal or other advice regarding the relevant time limits and her failure to do so was unreasonable.

52. The respondent further contended that even if the Tribunal accepted that the claimant had a lot going on in her life prior to 23 June 2024 with her wedding and associated activities, she had plenty of opportunity following her return from honeymoon from that date until 11 July 2024 to ascertain the correct position including as she was not working during this period. The impression given by the claimant in her evidence was however, that her attempts to secure legal advice were pretty cursory.

The submissions of the claimant

53. In summary, the claimant contended that she did her utmost to engage in the process and that she had a genuine and reasonably held belief regarding the time limits for presenting her claim in accordance with the information provided by ACAS in the email dated 11 June 2024 at page 55 of the bundle. The claimant says that the position was complicated further by the confusion relating to the correct identity of the respondent and the associated multiple ACAS EC Certificates and consequential differing deadlines for presentation of claims to the Tribunal. The claimant further says that she did not become aware of fact that her complaint of unfair dismissal was potentially out of time until the respondent's ET3 was sent to her by the Tribunal on 16 December 2024.

54. The authorities upon which she relies such as that of **Marks & Spencer** indicate that it may not be reasonably practicable to present a claim in time where a claimant relies on the mistaken advice of a non-lawyer such as ACAS as was the case with her. The claimant further says that she acted in good faith when relying on the information provided by ACAS in the email dated 11 June 2024 at page 55 of the bundle. Not ever everyone is able to afford advice from a lawyer. The claimant acted in accordance with the information she had been given by ACAS and her claim should be allowed to proceed.

THE CONCLUSIONS OF THE TRIBUNAL

Was the claimant's complaint presented in time

55. The Tribunal has considered first whether the claimant's complaint of unfair dismissal was presented within the relevant statutory time limit. The Tribunal is satisfied, for the reasons explained at paragraph 46 above, that the claimant had until 11 July 2024 to present her complaint of unfair dismissal to the Tribunals. The claimant's claim form was not however, presented to the Tribunals until 19 July 2024 and it was therefore presented outside the relevant time limit contained in section 111 of the Act as extended by the provisions of section 207 B of the Act by reason of ACAS Early Conciliation.

56. The Tribunal is also satisfied, for the reasons also explained at paragraph 46 above, that there is no legal basis for the calculation/ interpretation of the time limit as provided to the claimant by the ACAS Conciliator in her email dated 11 June 2024 (page 55 of the bundle) and that such information was therefore incorrect.

Was it reasonably practicable for the claimant to have presented her claim within the statutory time limit?

57. The Tribunal has therefore gone on to consider whether it was, on the facts of this case, reasonably practicable for the claimant to have presented her claim by 11 July 2024.

58. The Tribunal is satisfied, in the light of the findings at paragraphs 31-33 above, that the claimant relied / acted upon the information contained in the ACAS conciliator's email dated 11 June 2024 (page 55 of the bundle) regarding the relevant time limits. The Tribunal is also satisfied that in reliance upon such information, the claimant calculated that she had until 22 July 2024 to present her claim to the Tribunals against the respondent and further that she presented it on 19 July 2024 in accordance with such understanding and which she believed to be within the relevant time limits.

Is such error attributable to the claimant?

59. The Tribunal has therefore gone on to consider whether the error on the part of ACAS is attributable to the claimant such as to prevent her from relying on the not reasonably practicable extension. The Tribunal has reminded itself for such purposes of the principles contained in **Dedman** and in the later authorities of **Entwhistle** and **Ashcroft** referred to above, including for such purposes that any such attribution is not necessarily limited to a skilled adviser such as solicitor.

60. Having given the matter careful consideration the Tribunal is not however, satisfied on the facts of this case, that any error on the part of ACAS regarding the calculation of the time limits is attributable to the claimant such as to prevent her from relying on the not reasonably practicable extension.

61. When reaching this conclusion, the Tribunal has taken into account in particular, authorities such as **Fazackerley**(the latter also involving advice from ACAS) where the courts have taken a more nuanced approach to that in **Dedman** in respect of claimants who have acted on incorrect advice/ information from Tribunal officials/ ACAS and who have accordingly not been prevented from contending that it was not reasonably practicable to present their claims in time by reason of the reliance on such advice/information.

62. The Tribunal has also taken into account that in this case the respondent, properly, recognised the distinction between the position in **Dedman** (where the claimant relied on a solicitor) and **Fazackerley** (where the claimant relied on information provided by ACAS) including the respondent's acknowledgment that it was doubtful that the claimant would have an effective remedy against ACAS in respect of the advice/

information contained in the email dated 11 June 2024 (at page 55 of the bundle).

Was it, in any event, reasonable for the claimant to have relied upon the information provided by ACAS in the email dated 11 June 2024?

63. The Tribunal has therefore gone on to consider whether it was, in any event, reasonable for the claimant to have relied upon the information provided by ACAS in the email dated 11 June 2024 including whether she should have taken further steps to ascertain the correct position regarding time limits. As stated above, the respondent contends that the claimant was not entitled to rely on the information/ advice provided by ACAS and should further have taken more timeous legal advice to ascertain the position regarding time limits.

64. The Tribunal has considered first whether the claimant acted reasonably in relying upon the information/ advice provided by ACAS in the email dated 11 June 2024 (page 55 of the bundle).

65. The Tribunal has taken into account for such purposes that the email from ACAS at page 55 is marked "without prejudice ", and that the email provides links to potential sources of legal advice. The Tribunal has also taken into account the notice at the end of the subsequent email from ACAS dated 12 June 2024 (at page 56 of the bundle) (which standard wording appears to have been cut off from the bottom of the copy email from ACAS dated 11 June 2024 at page 55 of the bundle) includes the statement that "Should this communication contain any discussion of legal matters, this is not to be taken as an authoritative interpretation of the law"….

66. The Tribunal has also taken into account the information provided by ACAS concerning Time Limits in the links provided by ACAS to the claimant in February 2024 (page 40 of the bundle) including the following statements namely :-

"Time Limits

There are strict time limits for making a claim to an employment tribunal. In most cases, you have 3 months minus 1 day from the date the problem happened"

And further the statement at the end of that page that

"It's the claimant's responsibility to make sure that they make their claim to the tribunal in time. Only a tribunal can decide whether the claim is in time or not. The conciliator cannot decide or advise on this point".

67. The Tribunal has however balanced against the above, the following factors in this case. Firstly, the information concerning time limits provided to the claimant in the email dated 11 June 2024 (page 55 of the bundle) was provided by the ACAS Conciliator who had been allocated to the claimant's case on 13 May 2024 and had had dealings with her during the intervening period including concerning the identity of the correct respondent. Secondly, the Tribunal has taken into account the "matter-of-fact" nature of the information imparted by the ACAS Conciliator in the email dated 11 June 2024 (page 55 of the bundle) concerning the calculation of the relevant time limits. There is no suggestion in the information provided by the ACAS Conciliator in the first paragraph of that email that the calculation of the time limit required further verification and the references to sources of further legal advice in the following paragraph are generic in nature.

68. The Tribunal has also considered the contents of the email dated 11 June 2024 in the context of the claimant's overall dealings with ACAS at that time. The claimant, who is a litigant in person with no legal knowledge or experience, first contacted ACAS regarding her employment situation in January 2024 and thereafter had further contact/ dealings with ACAS from time to time in the period leading up to the email dated 11 June 2024 (including the assignment of an ACAS Conciliator in May 2024). The claimant therefore had an established use of/ relationship with ACAS by the time that she received the email dated 11 June 2024. Further, there is nothing in the extracts from the ACAS website concerning the calculation of time limits contained in the bundle which was before the Tribunal, which contradicts the information provided in the email dated 11 June 2024/ which would have put the claimant on notice of any potentially incorrect information requiring further advice. When reaching such conclusion, the Tribunal has had regard to the other extracts in the bundle of information on the ACAS website concerning Time Limits in the context of the Early Conciliation process such as at page 40 of the bundle (as referred to above) which includes the following statements :-

    ……" A claimant will have a minimum of 1 calendar month from the date they receive the certificate to make a claim to the employment tribunal."

    In some cases, a claimant might have longer than 1 month to make a claim to the employment tribunal "….

69. Further, there is no discussion / guidance in the extracts from the ACAS website contained in the bundle explaining/ alerting the claimant to the provisions/ application following her marriage of section 207 B (3) and (4) of the Act.

70. Having balanced all of the above, the Tribunal is satisfied, on the particular facts of this case, that the claimant, who was a litigant in person with no

legal experience or knowledge, acted reasonably in relying/ acting on the information provided by ACAS in the email dated 11 June 2024 concerning the relevant time limit including that there was nothing, on the available evidence, to put her, as a litigant in person, on notice of the existence or application of section 207 B of the Act.

Should the claimant have taken further legal or other advice.

71. The Tribunal has gone on to consider however, whether the claimant should, in any event, made more effort to obtain legal or other advice concerning the relevant time limits as contended by the respondent.

72. Having given the matter careful consideration, the Tribunal is satisfied that viewed overall, the claimant undertook reasonable steps in the particular circumstances of this case to obtain relevant advice concerning the time limits for the bringing of her claim.

73. When considering this matter the Tribunal has had regard in particular, to its findings that the claimant had investigated the possibility of obtaining advice from a solicitor (paragraphs 21- 22 above) but was unable to afford the legal fees in the light of the loss of her employment with the respondent / the costs of her wedding and the need to prioritise the use of any available monies on her mental health issues as a result of multiple family bereavements. The Tribunal has also taken into account that the claimant also tried to obtain from a local CAB (paragraph 14) but was unable to do so as the employment adviser was on long term sick. The Tribunal is further satisfied that such attempts to obtain advice were, overall, reasonable in the context of the claimant's course of dealings with ACAS as addressed above including, that there was nothing to alert the claimant to the possibility that the information contained in the email from ACAS dated 11 June 2024 was incorrect/ the need for further investigation.

74. In all the circumstances, the Tribunal is satisfied on the particular facts of this case, that it was not reasonably practicable for the claimant to have presented her claim to the Tribunal by 11 July 2024.

Was the claimant's claim, in any event, presented to the Tribunals within a reasonable period after the expiry of the relevant time limit?

75. Finally, the Tribunal has gone on to consider whether the claimant's complaint of unfair dismissal was presented to the Tribunal within a reasonable period after the expiry of the relevant time limit on 11 July 2024. The claimant's claim form was presented to the Tribunal on 19 July 2024, 8 days late.

76. In summary, the respondent says that the claim form was not, in any event, presented to the Tribunals within a reasonable period thereafter as even allowing for the events relating to the claimant's wedding / honeymoon, the claimant failed to pursue her claim in a timely manner after 23 June 2024.

77. The claimant however contends that she understood in the light of the information provided by ACAS in the email dated 11 June 2024, that she had until 22 July 2024 to pursue her claim against the respondent and that she therefore acted reasonably in presenting it on 19 July 2024 which was three days before the expiry of that deadline.

78. The Tribunal is satisfied in the light of its findings of fact, that the claimant believed, relying/ acting on the information from ACAS in the email dated 11 June 2024 (page 55 of the bundle) that she had until 22 July 2024 in which to present her claim to the Tribunals against the respondent and that when she presented it on 19 July 2024 she believed it to be within the relevant deadline. The Tribunal is further satisfied in the light of such findings of fact that this remained her understanding until on or around 16 December 2024 when she received a copy of the respondent's response from the Tribunal in which the respondent asserted that her claim was out of time (the findings at paragraphs 32 and 34 above).

79. In the light of all of the above, the Tribunal is satisfied that the claimant's claim against the respondent was presented within such further period after 11 July 2024 namely on 19 July 2024, as was reasonable in all the circumstances.

CONCLUSION

80. The Tribunal therefore has jurisdiction to entertain the claimant's complaint of unfair dismissal which is therefore allowed to proceed as separately advised/ directed.

Employment Judge Goraj
Date: 4 June 2025

Judgment sent to the Parties on 13 June 2025

For the Office of The Tribunals

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The Employment Tribunal (ET) is required to maintain a register of judgments and written reasons. The register must be accessible to the public. Judgments and reasons from February 2017 are available at: https://www.gov.uk/employment-tribunal-decisions

The ET has no power to refuse to place a judgment or reasons on the online register, or to remove a judgment or reasons from the register once they have been placed there. If you consider that these documents should be anonymised in anyway prior to publication, you will need to apply to the ET for an order to that effect under Rule 50 of the ET's Rules of Procedure. Such an application would need to be copied to all other parties for comment and it would be carefully scrutinised by a judge (where appropriate, with panel members) before deciding whether (and to what extent) anonymity should be granted to a party or a witness.

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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.

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Practice Directions and Guidance for Employment Tribunals (England and Wales) - Courts and Tribunals Judiciary