



EMPLOYMENT TRIBUNALS

Claimant: Mr Divya Kavadiya

Respondent: Byosen Limited

Heard at: London Central (by CVP)

On: 24/07/2025

Before: Employment Judge Duff

REPRESENTATION:

Claimant: Did not attend

Respondent: Ms Blanc (CEO)

JUDGMENT

PRELIMINARY ISSUES - LIMITATION

1. The claimant's claim was brought outside the time limits for bringing a claim for unlawful deduction of wages. The claimant did not make an application for an extension of time in which to bring his claim and did not provide the Tribunal with any reasons or evidence as to why an extension would be justified. In the circumstances the claimant's claim for unlawful deduction from wages is dismissed as out of time.

COSTS

2. The respondent's application for costs under r76(1)(a) and (b) is well founded on the grounds that the claimant has behaved unreasonably and the claim had no reasonable prospects of success. The claimant must pay the respondent's costs in the sum of £361.

REASONS

3. This is the final hearing of the claimant's claim for unauthorised deduction from wages relating to his time as an intern at the respondent company. According to his ET1, the dates of the internship, in which he claims worker status, were 20/06/23 – 06/08/23. These dates are disputed by the respondent, but not by a significant amount. In any event, the date for payment of the wages would have been 31 August 2023.
4. The matter has, rather unhappily, been listed for 4 final hearings, in August 2024, October 2024, March 2025 and today. It has been adjourned several times due to a combination of the claim form not having been properly served, and the claimant's residence in India making it difficult for him to attend.
5. The claimant remains in India, and was made aware that he would need to apply for permission to give evidence via CVP from there. He made the application on 15/07/25. The Tribunal has not received any further notification that permission has been granted, and the claimant has failed to attend today's hearing. He has provided additional documentation, but he has not filed and served any signed and dated witness evidence to support his claim, bar the original ET1.
6. The CMH on 14 August 2024 (converted from a final hearing), identified limitation as an issue for the Tribunal to consider at the final hearing. The respondent made an application for strike out on 04/03/25, the Tribunal again determining that this was a matter for the final hearing.
7. The claimant has not, since then, provided any evidence or representations to demonstrate that the claim was brought in time, or if not, provided any reason as to why an extension of time should be granted.
8. The claimant applied for early reconciliation on 04/03/24 and the certificate is date 15/04/24. The ET1 was received on 14/05/24. For the claim to have been brought in time, early conciliation should have started on 30 November at the latest, that being three months less one day from the date the unlawful deduction is alleged to have been made.
9. On that reckoning, the claim was significantly out of time, and in the absence of any reason to grant an extension of time, the claimant's claim is dismissed.
10. The respondent brings an application for her costs under Rule 76 of the ET Rules 2013. She states that the claimant has acted unreasonably in bringing a claim that is out of time and therefore had no reasonable prospects of success. She also points to the claimant's non-attendance today, without explanation, at the

fourth attempt at holding a final hearing. The respondent claims a modest amount of £656, representing 16 hours of preparation for the hearing spread over the course of 6 days, at a rate of £41 p/h.

11. The Tribunal agrees with the respondent that the claimant's behavior has been unreasonable. Bringing a claim that is out of time would not in itself constitute unreasonable behaviour. However, the claimant has been on notice for 11 months since the CMH, and again for four months since the respondent's strike out application, that limitation was an issue. The claimant has made no attempt to address this issue, provide evidence or explanation as to why the claim was brought out of time or bring an application for an extension of time. He has not attended the final hearing today to offer an explanation. In the circumstances the claim was unreasonable under r76(1)(a) and had no reasonable prospect of success under 76(1)(b).
12. The Tribunal also finds that the claimant's behaviour in failing to attend today without providing any explanation has been unreasonable. The Tribunal office made several attempts to contact the claimant at the start of today's hearing, including telephoning him and emailing the most recent email address provided, without response. Were this the first, or even 2nd final hearing listed for this matter, the Tribunal might have allowed some leeway, but this is the fourth time in the last twelve months this hearing has been listed, and the Tribunal has bent over backwards to accommodate the claimant's difficulties in attending the hearing due to his location. He was well aware of the hearing today, as can be seen from his application to give evidence from India made just 9 days ago. The claimant has therefore behaved unreasonably in the way these proceedings have been conducted through his non-attendance set against the procedural history of this matter.
13. The Tribunal therefore awards the claimant her costs in the sum of 16 hours preparation and a further three hours for her attendance at the hearing this morning, totaling 19 hours, at a rate of £19p/h, amounting to £361.

Approved by:
Employment Judge Duff
24 July 2025

Judgment sent to the parties on:

29 July 2025

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For the Tribunal: