



EMPLOYMENT TRIBUNALS

Claimant: Miss Temitope Ogundimu

Respondent: Kindered Hearts Limited

Heard at: East London Hearing Centre (by Cloud Video Platform)

On: 30 July 2025

Before: Employment Judge Barrett

Representation

Claimant: Represented herself

Respondent: Did not attend and was not represented

JUDGMENT

Rule 22 of the Employment Tribunal Rules of Procedure 2024

The Respondent has made unauthorised deductions from the Claimant's wages and must pay the Claimant the sum owing of £3,679.02 within 14 days of the date this judgment is sent to the parties.

REASONS

1. The Claimant worked for the Respondent as a Care Worker, and then as a Care Co-ordinator, from 12 January 2023 to 26 July 2024.
2. After early conciliation between 27 February and 4 March 2025, the Claimant presented an ET1 claim form on 6 March 2025. In her ET1 she sought £3,679.02 in respect of unpaid net wages.

3. The Claimant named as the Respondent Mary Mahohoma who is the owner and manager of Kindered Hearts Limited. The contact details she provided were the business address of Kindered Hearts Limited and Ms Mahohoma's email address, which is also the correct email address for the company. The Claimant's contract of employment shows her employer was in fact Kindered Hearts Limited, although she was at all times working under the direction of Ms Mahohoma. In the circumstances, I have amended the claim to substitute as the correct Respondent Kindered Hearts Limited.
4. The deadline for presentation of the ET3 response to the claim was 19 April 2025. No response was received.
5. The Claimant has provided evidential documents comprising her employment contract and her last payslip, which was for April 2024. She explained that tax and NI continued to be paid in respect of her wages from that date onwards but she did not herself receive her net salary.
6. The claim has been brought outside the primary three-month time limit. Section 23 Employment Rights Act 1996 ('ERA') provides (as relevant):
 - (1) **A worker may present a complaint to an employment tribunal —**
 - (a) **that his employer has made a deduction from his wages in contravention of section 13**
 - ...
 - (2) **Subject to subsection (4), an employment tribunal shall not consider a complaint under this section unless it is presented before the end of the period of three months beginning with—**
 - (a) **in the case of a complaint relating to a deduction by the employer, the date of payment of the wages from which the deduction was made, or**
 - ...
 - (4) **Where the employment tribunal is satisfied that it was not reasonably practicable for a complaint under this section to be presented before the end of the relevant period of three months, the tribunal may consider the complaint if it is presented within such further period as the tribunal considers reasonable.**
7. The Court of Appeal in *Palmer v Southend-on-Sea Borough Council* [1984] ICR 372 at [34] held that to construe the words 'reasonably practicable' as the equivalent of 'reasonable' would be to take a view too favourable to the employee; but to limit their construction to that which is reasonably capable, physically, of being done would be too restrictive. The best approach is to read 'practicable' as the equivalent of 'feasible' and to ask: 'was it reasonably feasible to present the complaint to the Industrial Tribunal within the relevant three months?'
8. In *Walls Meat Co Ltd v Khan* [1979] ICR 52 at p.56, Denning LJ held that the following general test should be applied in determining the question of reasonable practicability.

'Had the man just cause or excuse for not presenting his complaint within the prescribed time limit? Ignorance of his rights – or ignorance of the time limit – is not just cause or excuse, unless it appears that he or his advisers could not reasonably have been expected to have been aware of them. If he or his advisers could reasonably have been so expected, it was his or their fault, and he must take the consequences.'

9. In the same case (at p.61), Brandon LJ drew a distinction between a Claimant who is ignorant of the right to claim, and a Claimant who knows of the right to claim but is ignorant of the time limit:

'While I do not, as I have said, see any difference in principle in the effect of reasonable ignorance as between the three cases to which I have referred, I do see a great deal of difference in practice in the ease or difficulty with which a finding that the relevant ignorance is reasonable may be made. Thus, where a person is reasonably ignorant of the existence of the right at all, he can hardly be found to have been acting unreasonably in not making inquiries as to how, and within what period, he should exercise it. By contrast, if he does know of the existence of the right, it may in many cases at least, though not necessarily all, be difficult for him to satisfy an industrial Tribunal that he behaved reasonably in not making such enquiries.'

10. The Claimant told me she did not grow up in the UK and moved here when she was recruited by the Respondent. She did not have any background knowledge of the UK legal system or employment rights. When the Respondent ceased to pay her salary, she attempted to discuss this with Ms Mahohoma, and contacted her repeatedly. She struggled to pay her rent, and her focus was on finding alternative employment that would provide her with an alternative income. It was not until some time after she had secured new employment that she had a conversation with a colleague who told her that non-payment of wages could give rise to a legal claim for which you could seek redress in the Employment Tribunal. The colleague advised her to contact ACAS. The Claimant could not remember the date of the conversation with the colleague but says she contacted ACAS promptly afterwards and thereafter proceeded as ACAS advised.
11. I have found this to be a borderline case. The period of delay was fairly lengthy; if the last pay date occurred in August and time elapsed in November, the ACAS notification was approximately 3 months out of time. It would have been possible for the Claimant to Google what to do about unpaid wages and she would likely have discovered the existence of the Employment Tribunal sooner if she had. However, just because something is possible does not mean it is reasonably feasible. The Claimant did not know there was a legal avenue to research. In the circumstances I accept it was not reasonably practicable for her to contact ACAS within three months of her last missed pay cheque. Further, although she could not remember the date, I accept the Claimant acted with reasonable promptness after the conversation with her colleague when she discovered she might have a legal right to bring a claim. I have therefore extended time for the presentation of this complaint.
12. I have concluded on the basis of the information provided by the Claimant that a determination can properly be made of the claim in accordance with rule 22 of the Rules of Procedure.

Approved by:
Employment Judge Barrett
30 July 2025