



EMPLOYMENT TRIBUNALS

Claimant

Ms S Treacher

Respondents

East of England Ambulance
Service NHS Trust

Heard at: Bury St Edmunds (CVP)

On: 1 October 2025

Before: Employment Judge S Moore (sitting alone)

Appearances

For the Claimant: Mr D Stephenson, counsel

For the Respondents: Ms A Akers, counsel

JUDGMENT

The claim has been brought out of time and the Tribunal has no jurisdiction to hear it.

REASONS

Background

1. This Public Preliminary Hearing was listed to decide, amongst other things, whether the Tribunal has jurisdiction to hear the Claimant's claim of whistleblowing detriment or whether it has been brought out of time.
2. The Claimant has been employed by the Respondent since 20 October 2012.
3. In February 2023 there was an exchange of correspondence between her solicitors and the Respondent in respect of the fact that disciplinary proceedings had been instigated against her. The Claimant's solicitors alleged that she was being subjected to a detriment because of making protected disclosures pursuant to s.47B(1) Employment Rights Act 1996 (ERA).

4. The Claimant went to ACAS and obtained an Early Conciliation Certificate but did not pursue a claim at that stage because she believed that matters with the Respondent had been resolved. She said her legal advice from those solicitors stopped in August 2023 but that she continued to receive support from Union Line.
5. In the event she says she continued to experience what she believes was whistle-blowing detriment.
6. She undertook further ACAS conciliation between 14-18 September 2023.
7. On 18 October 2023 she lodged a claim form at the Tribunal (which contains the EC number received from the September conciliation process).
8. Prior to submitting her claim form she showed it to her Union Representative but did not seek further legal advice. While the Claim Form referred to unjust treatment and being removed from her role without any concrete evidence of wrongdoing, it did not say that the Claimant had suffered detriments or unfair treatment because of whistleblowing, rather it just contained a chronological list of events.
9. On 18 December 2023 she enquired what had happened to her claim and was informed by email of 19 December 2023 that it had been referred to Legal Officers for review.
10. On 3 January 2024 she received correspondence from a Legal Officer at the Employment Tribunal stating "it is unclear on what grounds a claim is being pursued...Question 5.1 indicates that employment is continuing while question 9.1 indicates that there are claims for unfair dismissal and discrimination. Question 8.1. has been left blank and the Tribunal believes this may have been in error only. Please clarify on what grounds a claim is being brought within 7 days. Failure to do so may result in the claim being referred to an Employment Judge for rejection as it cannot sensibly be responded to."
11. The Claimant replied by email the same day (3 January 2024) stating:

"Sorry for the confusion, I am still employed by the same employer, however they have removed me from my job and into another one, so I have ticked 9.1. for the part, to get your old job back and compensation (reinstatement).

I have been removed from my role, been treated unfairly and had my reputation damaged through the process I was put through due to Whistleblowing. If you require anything else please let me know. We now have representation though Union line."
12. Despite that email, on 7 February 2024 the Claimant was sent correspondence informing her that her claim form had been referred to Employment Judge Young who had decided to reject it "because it cannot be sensibly responded to."
13. It is unclear whether, when making that decision, EJ Young had sight of the Claimant's email of 3 January 2024 or not.
14. On 14 February 2024 the Claimant asked for reasons for that decision.

15. By email of 19 February 2024, the Claimant applied for a reconsideration of the decision to reject her claim form and made further submissions by email of 20 February 2024.
16. I note that in those emails she does not refer to her email exchange with the Tribunal dated 3 January 2024.
17. By correspondence dated 29 February 2024 the Claimant was informed that EJ Young's reasons for rejecting the claim form were that:
 1. The Claimant did not tick any box to disclose what type of claim she was bringing in section 8.1.
 2. The Claimant said she wanted to be reinstated to her job but also ticked the box that she was continuously still employed.
 3. The Claimant's details in box 8.2 did not disclose any claim that the Employment Tribunal has jurisdiction to hear.
18. By email of 5 March 2024 the Claimant submitted further arguments in support of her application for reconsideration. She said her case related to whistleblowing, and that she blew the whistle to CQC in April 2022 after she had witnessed patient safety concerns at work and that following this she was victimized at work and suffered many detriments. These submissions largely repeated what she had already said in her emails of 19 and 20 February 2024.
19. By email of 6 March 2024 the Claimant was informed her response had been referred to EJ Young.
20. By email of 11 July 2024 the Claimant asked for an update on the appeal decision and was informed by email of 10 September 2024 that directions were still awaited.
21. By email of 20 January 2025 the Claimant was informed:

"After reconsideration by Employment Judge Young, the whole claim no longer stands rejected.

Because the original decision to reject the claim was correct but the defect which led to the rejection has since been rectified, the claim form is to be treated as having been received on 5 March 2024."
22. That decision was made in accordance with rule 14(4) Employment Tribunal Rules of Procedure 2024 which provides that: "If the Tribunal decides that the decision to reject the claim, or part of it, was correct but that the defect has been rectified, the claim must be treated as presented on the date that the application containing the rectification was received by the Tribunal"
23. EJ Young appears to have decided that it was appropriate to treat the claim form as having been received on 5 March 2024, because that is the date on which the Claimant responded to the reasons given for the initial decision to reject the claim form. It is not clear why EJ Young did not consider that the date that the application containing the rectification was received by the Tribunal was in fact 3 January 2024. It may be that they never had sight of this email or that they did not consider that the email contained sufficient details to rectify the

claim form. However, the Claimant did not apply for a further reconsideration of EJ Young's decision of 20 January 2025 or appeal it.

24. The Respondent was given 28 days to respond to the claim, which it did, pointing out that since the claim form was to be treated as having been received on 5 March 2024 it was out of time.

Conclusions

25. Section 48(3) ERA provides that an employment tribunal shall not consider a complaint under this section unless it is presented before the end of the period of the primary 3-month time limit or "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".
26. In this case the last pleaded act of detriment was 18 October 2023, so that (assuming it was the last of a series of acts) the time limit expired, at the latest, on 21 January 2024 (taking account of the period of Early Conciliation in September 2023).
27. The question is therefore whether the Claimant has shown it was not reasonably practicable for the complaint to have been presented by that date.
28. Mr Stephenson submitted it was not reasonably practicable because she wasn't informed that her claim had been rejected until 7 February 2024, which was already after the expiry of the time limit.
29. However, the test is not whether it was reasonably practicable for the Claimant to rectify any defect with the claim form within the three-month time limit but whether it was reasonably practicable for her to have presented a valid claim form within three months.
30. Mr Stephenson relied on **Wall's Meat Co Ltd v Khan** [1979] ICR 52, in particular the passage by Bandon LJ stating:
- "...The performance of an act, in this case the presentation of a complaint, is not reasonably practicable if there is some impediment which reasonably prevents, or interferes with, or inhibits, such performance. The impediment may be physical...or the impediment may be mental, namely the state of mind of the complainant in the form of ignorance or, or mistaken belief with regard to, essential matters."
31. However, that passage continues:
- "Such states of mind can, however, only be regarded as impediments making it not reasonably practicable to present a complaint within the period of three months, if the ignorance on the one hand, or the mistaken belief on the other, is itself reasonable. Either state of mind will, further, not be reasonable if it arises from the fault of the complainant in not making such enquiries as he should reasonably in all the circumstances have made, or from the fault of his solicitors or other professional advisers in not giving him such information as they should reasonably in all the circumstances have given him."

32. Mr Stephenson relies on the Claimant's mistaken belief that she had submitted a valid claim form on 18 October 2023 and submitted that that belief was reasonable because she was a litigant in person, her claim was unusual in that she had not been dismissed but had been demoted, and that it wasn't obvious on the claim form which box to tick when bringing a whistleblowing claim.
33. That is all true. However, the essential problem with the claim form was that despite setting out a reasonably lengthy chronology, the Claimant didn't articulate even in layman's terms – the factual basis of a whistleblowing claim, namely that she had suffered instances of detrimental and/or unfair treatment because she had made a disclosure of information.
34. Further the Claimant had been aware of the nature of her claim for some time and had previously instructed solicitors and been in receipt of legal advice. She must also have at least seen the letters sent on her behalf by her solicitors in February 2023. In these circumstances I consider it was reasonable to expect her to be able to set out the factual basis of her claim in the form and to seek further legal advice if she was uncertain how to fill it in. I note that there was no time pressure to submit it on 18 October 2023. Further, insofar as she was being advised by her union, I consider it reasonable to expect the union representative who read through the claim form prior to it being submitted to have noticed and advised the Claimant that she hadn't set out a comprehensible basis for her claim of whistleblowing detriment anywhere within it.
35. I have some sympathy with the Claimant. She may well have believed that she had rectified the errors in her claim form in her email on 3 January 2024 – responding to the Legal Officers email of 3 January 2024 (which first notified her that the claim form was deficient) and it is unclear what part that email played in EJ Young's decisions to reject the claim and then to accept the claim form but treat it as having been lodged on 5 March 2024 (or indeed whether EJ Young saw the email exchange of 3 January 2024 at all). The Claimant's application for reconsideration of EJ Young's initial decision of 7 February 2024 also took an unacceptable amount of time to be addressed.
36. Nevertheless, I cannot find that it was not reasonably practicable for the claim form to have been submitted by 21 January 2024. It therefore follows that the claim is out of time and the Tribunal has no jurisdiction to hear it.

Approved By:

Employment Judge S Moore

Date: 2 October 2025

Sent to the parties on:
24 October 2025

For the Tribunal: