EMPLOYMENT TRIBUNALS

Claimant: Mr R Lee
Respondent: Standon Calling Limited

Heard at: Watford (by CVP)
On: 22 September 2025
Before: Employment Judge Dick

Representation
Claimant: In person
Respondent: Mr A Trenchard (a director of the respondent)

JUDGMENT having been sent to the parties on 13 October 2025 and written reasons having been requested in accordance with Rule 60 of the Employment Tribunals Rules of Procedure, the following reasons are provided:

REASONS

1. This case had been listed for a final hearing of the claim, which consisted of complaints relating to unfair dismissal, notice pay, holiday pay, bonus pay, pension contributions and redundancy pay. At the start of the hearing I discussed the issues with the parties. As the claimant had been aware, the respondent had suggested that the claim had been submitted out of time. The parties did not disagree with my proposal to make a decision on time limits before dealing with the other issues in the case, and so I heard sworn evidence from the claimant, which supplemented his written statement and his written application to extend time. After hearing that evidence I heard submissions and then delivered an oral judgment and reasons. I found that all of the claim, save for the complaint about the redundancy payment, was out of time. I therefore dismissed the claim, save for the complaint about the redundancy payment and, having established the respondent did not dispute its liability to make a redundancy payment, issued a judgment for the redundancy payment. The claimant asked me for written reasons for my findings on the time limits point. (The written judgement to which these reasons relate to was sent separately to the parties on 13 October 2025.)

2. The following dates were agreed between the parties:

    1.1 On 29 January 2024, the claimant was informed that he was to be made

redundant and he sought, amongst other things, a redundancy payment in writing on 2 February.

1.2 His final day in employment (the effective date of termination, "EDT") was 29 February 2024.

1.3 The began early conciliation through Acas on 13 May 2024.

1.4 The early conciliation process formally ended on 3 June 2024.

1.5 The claimant submitted his claim form, the ET1, on 6 August 2024.

3. The complaint relating to the redundancy payment was made to this Tribunal within six months of the EDT and was therefore in time.

4. As regards the complaint of unfair dismissal, the test that I had to apply is set out in section 111 of the Employment Rights Act 1996 ("ERA"), which says 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.

5. That period of three months is extended by operation of s 207B ERA to take account of early conciliation. S 207B has two effects. First, ss 207B(3) "stops the clock" during the period in which early conciliation is taking place. Second, by s 207B(4), when the time limit would otherwise have expired during the conciliation period or up to a month afterwards, the claimant has a one month after the end of conciliation to present the claim.

6. So far as the other complaints are concerned, the same test applies, although it is set out in different parts of legislation. (Although time is not necessarily expressed to run from the EDT in those various other parts, the practical effect is that on the facts of this case time would in fact run from the EDT at the latest.)

7. The complaints in this case, aside from the claim for a redundancy payment, were therefore presented a little over one month late.

8. I took account of three particular authorities:

6.1 In Palmer and another v Southend on Sea Borough Council [1984] ICR 372, the Court of Appeal explained that "reasonably practicable" does not mean reasonable, which would be too favourable to employees, but nor does it mean physically possible, which would be too favourable to employers, but it means something like reasonably feasible.

6.2 In Asda Stores Limited v Kausar EAT 0165/07, Lady Smith said that the relevant test is not simply a matter of looking at what was possible but to ask whether, on the facts of the case as found, it was reasonable to expect that which was possible to have been done. That same case in fact makes clear that the burden of establishing that it was not reasonably practicable

lies on the claimant.

6.3 Lowri Beck Services Limited v Brophy [2019] EWCA Civ 2490. The test of reasonable practicability is one of fact and not of law. Where the time limit is missed because the claimant is unaware of the time limit, or mistaken about when it expires, the question is whether that ignorance or mistake is reasonable – if it is not, then it will have been reasonably practicable to have presented the claim in time

7 It has been observed that the test is a fairly stringent one and is one which can, in some circumstances, produce results which a claimant, in particular, would consider to be harsh.

Factual Findings

8 In addition to the agreed facts which I set out above, I made the following further findings of fact on the balance of probabilities having heard evidence from the claimant.

9 The claimant was aware of the potential for claims to be presented to an Employment Tribunal from 2 February 2024 at the latest. That was made clear in an email that he sent to the respondent on that date which was in the bundle for the hearing.

10 While the claimant was hoping at that time to resolve his claim via a payment from the Redundancy Payment Services, and so without recourse to the Employment Tribunal, the claimant fairly conceded in his evidence that he expected only to get the redundancy payment (as opposed to anything else which he claims) from the Redundancy Payment Services. He made clear to the respondent that it was his hope to resolve the case in that manner and that he wished to avoid having to start the early conciliation process. All of that is perfectly reasonable in my judgment – in other words it was reasonable not to have moved straight to presenting a claim to the Tribunal at this point. I accept the claimant's evidence that he believed that the three-month time limit applied merely to early conciliation rather than to bringing a claim in the Employment Tribunal. But the reality is that the claimant was perfectly able to have found out about the time limits applicable to Tribunal claims, even where he was, quite reasonably, hoping to resolve the situation amicably without reference to the Tribunal.

11 The key here, in my judgment, is that, as the claimant made clear, by the time he went to Acas, so around 13 May 2024, he had concluded that the situation was not going to be resolved through the Redundancy Payment Service. That, of course, is why he started early conciliation. Equally clearly of course, the claimant knew by 3 June, the end of conciliation period, that nor was the dispute going to be resolved through the Acas process. It is for that reason that, in my judgment, I do not have to come to any conclusion about whether the claimant is right or not to say that the respondent deliberately stalled or drew out the process. The reality is that – whatever the respondent was doing – the claimant knew by 3 June that the only way he would get what he thought he was owed was by making a complaint to the Tribunal. So the issue for me is, in light of that, whether it was not reasonably practicable for the claimant to have submitted his claim by early July and, if so,

whether the further delay, which the parties have pointed out was not a matter of days on the one hand, but not a matter of months on the other hand, was reasonable. While I accept that that the claimant was liaising in good faith trying to resolve the situation through the Redundancy Payment Services and then Acas, that only really assists the claimant up to the point of 3 June for the reasons I have already explained.

12 The claimant said, and I accept, that he was in full-time work between the start of April and 29 July in order to try and mitigate his losses. I note that that period of temporary employment came to an end about a week before he submitted his claim. I also accept that the claimant was using his time outside of those working hours to apply for other jobs in the meantime – 13 roles, he told me – and as well that he was looking into other potential sources of work. Of course, that is a point that cuts both ways – if the claimant had the time to apply for other roles, it might also be said that he had the time to prepare and present his Tribunal claim. Whilst I would be careful not to underestimate the amount of work required for a litigant in person to present a claim to the Tribunal, the facts of the case are relatively straightforward and the claimant was able to present them clearly on three and a half pages of properly spaced typed A4, though I do acknowledge that it can take longer to prepare a short and focussed narrative (as the claimant did here) than it can to present a long rambling one. It is of course the very nature of these sorts of claims that very many other claimants find themselves in the position of having to look for other work, and yet the three month deadline set by Parliament still applies.

13 I further accept that the claimant had not inconsiderable difficulties in his personal life at the material time. Unfortunately, he told me, his mother had been diagnosed with a terminal illness and so in the week after the temporary role ended he was providing support to his parents who lived in the north of England.

14 I further accept that the claimant was struggling with his mental health at the material time although I consider that I can only give that last point some limited weight because, as the claimant accepts, at that point he was struggling alone and so there is no independent medical evidence about his mental state at that time. But I have no doubt that the period that I am concerned with was a very difficult time for the claimant both emotionally and in the sense that he would have been very busy.

Conclusions

15 I remind myself that the standard I have to apply is not whether it was impossible for the claimant to have brought his claim but whether it was reasonably practicable. Although I accept that the claimant's difficulties that I have set out above were significantly more severe than in a straightforward case of this nature, I nevertheless do still find as a fact that it was reasonably practicable for the claimant to have presented his claim in time. If the claimant had, as he was capable of doing, found out about Employment Tribunal time limits he could and would have been able to present his claim in time. I do not accept the claimant's submission that any later delays by the respondent in, for example, providing a response, change that position in any way. Different rules apply to that situation as to the submission of a claim form in time.

16 Having come to that conclusion, it is not necessary for me to address the second part of the test set out in 111(b) of ERA. As a result, I was obliged to dismiss all of the complaints in this case save for the complaint relating to the redundancy payment.

17 I have dealt with the claimant's application for a transcript of the hearing at public expense under separate cover. Finally, my apologies to the parties for the time it has taken me to prepare these reasons.

Approved by:

Employment Judge Dick

4 November 2025

JUDGMENT SENT TO THE PARTIES ON

4 November 2025

FOR THE TRIBUNAL OFFICE

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision. If written reasons are provided they will be placed online.

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at *https://www.gov.uk/employment-tribunal-decisions* shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. 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. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/