EMPLOYMENT TRIBUNALS

Claimant: Ms A Ames

Respondent: Ultrasafe UK Ltd

Heard at: **Bristol (by video – CVP)** **On:** **24 October 2025**

Before: **Employment Judge Livesey**

Representation
Claimant: In person
Respondent: Mr Ames, Director

JUDGMENT

The Claimant's claims are all dismissed as they were brought out of time and extensions are not granted under the statutory tests within ss. 23, 48 and 111 of the Employments Rights Act, regulation 30 of the Working Time Regulations (the 'reasonable practicability test') and s. 123 of the Equality Act.

REASONS

Relevant background

1. By a Claim Form dated 2 October 2024, the Claimant brought complaints of discrimination on the grounds of age, marriage or civil partnership and/or sex, public interest disclosure detriment, unfair dismissal, unpaid holiday pay, unpaid wages, unpaid notice pay and for a redundancy payment, although the last two of those claims were subsequently withdrawn. The Form indicated that her dates of employment were 21 May 2000 to 5 July 2023. She had approached ACAS for early conciliation on 19 June 2024 and she had received her certificate a few days later, on 4 July.

2. In its response filed by Mr Ames, the Claimant's former husband, the Respondent alleged that the Claimant had been a director until 2012 when she had resigned to start her own company, Lowdermilk Ltd. Her dates of employment were given broadly as 2012 to 2023. Other matters were raised within the response which were not relevant for the purposes of this Judgment.

3. The claim came before Employment Judge King on 7 April 2025 for case management. He listed this hearing in order to determine whether the claims had been brought in time and, if not, whether time should have been extended

4. In dealing with that issue, the Claimant gave evidence in accordance with her witness statement dated 29 September 2025. Employment Judge King had directed that any medical reasons given for her delay must have been supported by evidence (paragraph 22 of his Order of 7 April 2025). No medical was submitted in support of the Claimant's position.

Legal principles

5. There were two separate legal tests involved; those under ss. 23, 48 and 111 of the Employments Rights Act and regulation 30 of the Working Time Regulations (the 'reasonable practicability test') and that within s. 123 of the Equality Act (the 'just and equitable test'), both of which were set out in Judge King's previous Order and Summary and do not need to be repeated here.

6. As to the former, the test was a hard one to meet on the face of the wording of the legislation. It required a consideration of whether it had been reasonably feasible for the claim to have been issued in time. A tribunal was entitled to take a liberal approach (*Marks & Spencer-v-Williams-Ryan* [2005] EWCA Civ 470 and *Northamptonshire County Council-v-Entwhistle* [2010] IRLR 740), but it nevertheless had to apply the wording of the statute to the facts.

7. The onus was on the Claimant; "*That imposes a duty upon* [her] *to show precisely why it was that* [she] *did not present* [her] *complaint*" (*Porter-v-Bandridge Ltd* [1978] ICR 943, CA). The question of what was or was not reasonably practicable was essentially one of fact for the tribunal to decide. One of the leading authorities was the decision of the Court of Appeal in *Palmer and Saunders-v-Southend-on-Sea Borough Council* [1984] IRLR 119, CA in which May LJ undertook a comprehensive review of the authorities, and proposed a test of '*reasonable feasibility*'.

> *"[W]e think that one can say that to construe the words "reasonably practicable" as the equivalent of "reasonable" is to take a view that is too favourable to the employee. On the other hand, "reasonably practicable" means more than merely what is reasonably capable physically of being done…… Perhaps to read the word "practicable" as the equivalent of "feasible"…… and to ask colloquially and untrammelled by too much legal logic - "was it reasonably feasible to present the complaint to the [employment] tribunal within the relevant three months?" - is the best approach to the correct application of the relevant subsection."*

8. The possible factors were many and various, and as May LJ stated, they could not have been exhaustively described. They depended upon the circumstances of each case. He nevertheless listed a number of considerations which might have been investigated (at page 125) which included the manner of, and reason for, the dismissal; whether the employer's conciliatory appeals machinery had been used; the substantial cause of the claimant's failure to comply with the time limit; whether there was any physical impediment preventing compliance, such as illness, or a postal strike; whether, and if so when, the claimant knew of his rights; whether the

employer had misrepresented any relevant matter to the employee; whether the claimant had been advised by anyone, and the nature of any advice given; and whether there was any substantial fault on the part of the claimant or his adviser which led to the failure to present the complaint in time.

9. When considering whether or not a particular step was reasonably practicable or feasible, it was necessary for the tribunal, (as the Court of Appeal said in *Schultz-v-Esso Petroleum Ltd* [1999] 3 All ER 338, [1999] IRLR 488) to consider the question 'against the background of the surrounding circumstances and the aim to be achieved'. This was what the 'injection of the qualification of reasonableness required'.

10. It would not have been reasonably practicable for a claimant to have issued a claim until they were aware of the facts giving him or her grounds to have applied. It was not usually an excuse, however, for a claimant to argue that they were not aware of their *right* to bring a claim. The reasonableness of their state of knowledge would have to be considered. There was an obligation upon a claimant to take reasonable steps to seek information and advice about the enforcement of their rights (*Trevelyans (Birmingham) Ltd-v-Norton* [1991] ICR 488m at 491).

11. If it was not reasonably practicable to present the claim time, the tribunal may allow an extension, but only for such a further period as is considered reasonable. A consideration of that issue generally involves similar considerations to the threshold test. Such an assessment must always be made against the general background of the primary time limit and the strong public interest in claims being brought promptly (see *Cullinane-v-Balfour Beatty Engineering Services Ltd* EAT 0537/10). Tribunals always had to bear in mind the general principle that litigation ought to have been progressed efficiently and without delay.

12. In respect of the complaints of discrimination under the Equality Act, should a claim have been brought outside the three month period, it was nevertheless possible for a claimant to pursue it if the tribunal considered that it was just and equitable to extend time (s. 123 (1)(b)). There was no presumption in favour of an extension. The onus remained on a claimant to prove that it was just and equitable to extend time and, if he/she advanced no case in support of an extension, he/she would not be entitled to one (*Rathakrishnan-v-Pizza Express* [2016] ICR 23 and *Moray Hamilton-v-Fife Council* UKEATS/0006/20/SS). The Tribunal's discretion was wide and there was no rule of law that extensions were only to have been made in exceptional case (*Robertson-v-Bexley College* [2003] EWCA Civ 576, *Caston-v-Chief Constable of Lincolnshire Police* [2009] EWCA Civ 1298 and *Jones-v-Secretary of State for Health and Social Care* [2024] EAT 2).

13. Time limits were not just targets, they were 'limits' and were generally enforced strictly. A good reason for an extension generally had to be demonstrated, albeit that the absence of one would not necessarily be determinative. A tribunal was not bound to refuse an extension in the absence of an explanation having been provided for the delay, but such an absence was undoubtedly a relevant consideration (*ABMU-v-Morgan* [2018] IRLR 1050 (CA), *Concentrix CVG Ltd-v-Obi* [2022] EAT 149 and *Owen-v-Network Rail* [2023] EAT 106). Nevertheless, there must be *some* material upon which a tribunal can exercise its discretion in favour of the Claimant (*Habinteg*

Housing Association-v-Holleron EAT 0274/14 and *Edomobi-v-La Retraite RC Girls School* EAT 0180/16, per Laing J);

> *"In neither case, in my judgment, is there material on which the ET can exercise its discretion to extend time. If there is no explanation for the delay, it is hard to see how the supposedly strong merits of a claim can rescue a Claimant from the consequences of any delay."*

14. Tribunals have been encouraged to consider the factors listed within s. 33 of the Limitation Act 1980 (the *Keeble* factors), although it was not necessary to use the section as a framework for the approach (*Adedeji-v-University Hospital Birmingham NHS Foundation Trust* [2021] EWCA Civ 23). I had to consider the length of and reasons for the delay, the extent to which the Claimant had sought professional help and the extent to which information, which she said that they needed, was not known by her until much later and the degree to which the Respondent should have been blamed for any late disclosure in that respect. We also had to consider whether the Claimant had dragged her feet once she knew all of the relevant information. It was thought that the touchstone, however, was the issue of prejudice; whether and to what extent the delay has caused prejudice to either side. Although certainly relevant, it was by means a determining factor (see Laing J in *Miller-v-Ministry of Justice* UKEAT/0003/15 at paragraph 13).

Discussion and conclusions

15. It had been recorded by Judge King that the Claimant claimed to have been an employee of the Respondent for several years, undertaking administrative tasks, email and client handling and sales. During the 2020 lockdown, she worked from home and continued to do so when it eased, not returning to the office. Although she had never been given a contract of employment, she claimed to have received £792 each month until 5 July 2023 when the payments ceased (paragraphs 50 to 54 of his Case Summary).

16. During her evidence at the hearing today, which was not given in a straightforward or calm manner, as has been explained in more detail below, she said this;
    - She accepted that she had been a Director of the Respondent between 27 September 2004 and 15 September 2011, as shown on the Companies House register;
    - She continued to receive £792 per month from the Respondent, until the last payment on 5 July 2023;
    - She initially asserted that she had been dismissed from that date, which accorded with what had been stated in her Claim Form and what she had said to Employment Judge King. However, later in her evidence, she claimed to have been dismissed on 1 December 2023, because that was the date upon which she received her P45 which, she claimed, contained a leaving date of 1 November 2023;
    - There had clearly been a marital breakdown in 2022 or the beginning of 2023 because she said that, from February 2023, she was not in the marital home but was living at the Holiday Inn, Exeter;
    - She eventually found full time work with Iceland which she started on 1 December 2023. She worked there until June 2024 when she said that it came to an end because it had been seasonal. She then had a short period in a further retail position for Mole Avon (about 6 weeks) but

was then out of work for approximately 6 months until she started with Business Link Teams in April of this year;

- Having saved funds from her full-time employment with Iceland from December 2023, she was able to move into rented accommodation in April 2024, having had spells at a bed-and-breakfast and temporary, supported accommodation after having left the Holiday Inn in November 2023;
- When asked the direct question as to why she had not brought proceedings earlier, she said that she had. By July 2023, she said that she was separated from her husband and family, she was not being paid by the Respondent (but was still on the books and unable to claim benefits) and had spoken to an accountant and solicitor for advice. She said that she had issued the claim then.

17. It was clear from the Tribunal file that her claim was not received until 2 October 2024, following her approach ACAS as discussed above. Having previously said that she had left Iceland because the role had been seasonal and having maintained that she had not issued proceedings against that company, it was also clear that a claim form had been filed on the same date (2 October) against that business too.

18. It was clear that all of the Claimant's claims were substantially out of time. On the basis of the dates set out in paragraph 1 above, any matter which had arisen before 20 March 2024 was out of time.

19. On the basis that her employment had ended in early July 2023, all of her claims were therefore approximately 8½ months out of time. Even if she had been able to demonstrate that she had not been dismissed until 1 November or 1 December 2023, her claims were nevertheless substantially out of time, but her contentions in that respect were difficult to understand and were wholly inconsistent with what had been advanced before.

20. Had it been reasonably practicable for the claims to have been issued sooner? The Claimant's statement described her position as follows;

> "*My circumstances were due to the homelessness with no income and no access to benefits due to the earnings which were no* [sic] *received but still being reported to HMRC. At the time I did not have the capacity or strength to submit a claim as I was trying to survive the circumstances, I found myself in.*"

Beyond that, the statement covered the acts of discrimination and the detriments that she complained about and not the jurisdictional time issues which were the subject of the hearing.

21. There had clearly been a period of significant disruption to the Claimant's life in 2023, including her homelessness between February 2023 and April 2024, when she moved into rented accommodation. But from 1 December 2023, she was in full-time employment and it was difficult to understand why it had had not then been feasible for her to have issued proceedings. By April 2024, she appeared to have been on a much more even keel, having also then moved into rented accommodation.

22. Even if it had not been feasible for her to have issued her claim in or just after July 2023 because of her domestic disarray, there was nothing within her evidence which indicated that it had not been practicable for her to have done

so whilst in full-time employment or, at the latest in April, when her situation appeared to have settled down. The claims under the Employments Rights Act and the Working Time Regulations were dismissed; the Claimant had not demonstrated that it had not been reasonably practicable for her to have issued the claim in time, nor had she demonstrated that she had issued it within such time as had been reasonable once it had become practicable for her to have done so.

23. A different test had to have be applied under the Equality Act, but all the matters set out above were relevant to the assessment of the justness and equitability test.

24. The length of the delay was significant. The reasons for it were poorly explained, certainly beyond April 2024. There was no suggestion that she did not have all of the relevant facts to have enabled her to brought a claim earlier. She had sought advice from solicitors and an accountant and she had been left in no doubt that what the Respondent had done was wrong. There was no suggestion that she had not realised that she did not have a right of action. She simply seemed to have dragged her feet. Many of the acts of discrimination occurred long before 5 July 2023 and the Claimant simply did not demonstrate a good reason for the discretion within s. 123 to have been exercised in her favour. They too were dismissed.

25. In addition to the factors set out above, the matters set out in the paragraphs below also had a bearing upon the exercise of the discretion against her under s. 123.

The parties' conduct during the hearing

26. This was an extremely difficult hearing to manage. At the start, once problems with the Respondent's technology had been overcome, Mr and Mrs Ames quickly descended into abusive name-calling, despite repeated requests for them to be quiet. They had to be warned of the provisions of rule 38 (1)(b) and it was made very clear that, if they continued to behave in that manner, they would face the possibility of their claim or response being struck out.

27. As stated above, the Claimant then gave evidence. Many questions that were put to her initially, had to repeated. Inconsistent answers were sometimes given. The Respondent's direct questioning of her quickly descended into further name calling and abuse (she referred to Mr Ames as a 'drunken idiot').

28. In an attempt to avoid the nuclear option of striking the claim out, I adjourned the hearing for 5 minutes in order for the parties to calm down. When it was resumed, I gave them both a clear indication that they were only to speak upon my invitation. I checked that they both understood that instruction and the consequences of their failure to adhere to it. They both confirmed that they did.

29. Since they were clearly incapable of conversing politely, questions were only then permitted through me. Mr Ames was then asked if there were further matters that he wished to have explored. As he then described a further issue that he considered was relevant, the Claimant interjected rudely again; she said that she was 'not going to listen to him', that she 'could not listen to his lies' and that 'even Devon and Cornwall Police did not believe him'. Rather

than striking the claim out at that point, I invited closing submissions (during which there were further interruptions) and gave the ruling on time which has been set out in full above.

30. Had this hearing preceded any further, it seemed highly likely that one or other party would have fallen foul of the sanction which had been clearly indicated to them if they were not able to behave. Whilst Mr Ames had not behaved well, it was the Claimant who had been the most abusive and intemperate, despite frequent pleas and warnings. It was difficult to see how they would ever of have been capable of navigating a final hearing. Mrs Ames, in particular, seemed wholly incapable of behaving in a civil, polite and cordial manner and, more particularly, she appeared unable or unwilling to adhere to my pleas and directions for her to moderate her language and behave.

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Employment Judge Livesey
Date: 24 October 2025

JUDGMENT SENT TO THE PARTIES ON
12 November 2025

Jade Lobb
FOR THE TRIBUNAL OFFICE

Notes

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https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/
written record of the decision.