EMPLOYMENT TRIBUNALS

Claimant: Miss L Thompson
Respondent: Sciensus Pharma Services Limited

RECORD OF A PUBLIC PRELIMINARY HEARING

Heard at: Watford Employment Tribunal by CVP
On: 29 October 2025

Before: Employment Judge Alliott

Representation
Claimant: In person
Respondent: Ms Louise Quigley (counsel)

JUDGMENT

The judgment of the tribunal is that:

1. The claimant claim was not presented in time and it was reasonably practicable to have presented it in time.

2. The claimant's claim is struck out as there is no jurisdiction to hear it.

REASONS

1. This public preliminary hearing was ordered by Employment Judge Young on 8 August 2025 as follows:-

> "The tribunal will be asked to decide:
>
> 1. Was the unfair dismissal made within the time limit in section 111 of the Employment Rights Act 1996?
>
> 2. Was the claim made to the Tribunal within three months (plus early conciliation extension if relevant) of the effective date of termination?
>
> 3. If not, was it reasonably practicable for the claim to be made to the Tribunal within the time limit?
>
> 4. If it was not reasonably practicable for the claim to be made to the Tribunal

within the time limit, was it made within a reasonable period?

5. Whether the Claimant's claims should be struck out as having no reasonable prospects of success;

6. Whether a deposit order should be made on the grounds that the claimant's claims stand little reasonable prospects of success;

7. To make any further case management orders to progress the claim and the response."

The evidence

8. I had a hearing bundle of 65 pages.

9. I had a witness statement and heard evidence from the claimant and her daughter-in-law, Ms Sara Thompson.

The law

10. Section 111(2) of the Employment Rights Act 1996 provides as follows:-

> (2) Subject to the following provisions of this section, an employment tribunal shall not consider a complaint under this section 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."

11. As per the IDS Employment Law Handbook on Practice and Procedure:

At 5.46:

> "When a claimant tries to excuse late presentation of his or her ET1 claim form on the ground that it was not reasonably practicable to present the claim within the time limit, three general rules apply:
>
> - Section 111(2)(b) ERA… should be given a "liberal construction in favour of the employee" – Dedman v British Building and Engineering Appliances Ltd [1974] ICR 53, CA.
>
> - What is reasonably practicable is a question of fact and thus a matter for the tribunal to decide. An appeal will not be successful unless the tribunal has misdirected itself in law or has reached a conclusion that no reasonable tribunal could have reached. As Lord Justice Shaw put it in Walls Meat Co Ltd v Khan [1979] ICR 52, CA: "The test is empirical and involves no legal concept. Practical common sense is the keynote and legalistic footnotes may have no better result than to introduce a lawyer's complications into what should be a layman's pristine province. These considerations prompt me to express the emphatic view that the proper forum to decide such questions is the employment tribunal, and that their decision should prevail unless it is plainly perverse or oppressive."

- The onus of proving that presentation in time was not reasonably practicable rests on the claimant. "That imposes a duty upon him to show precisely why it was that he did not present his complaint." – Porter v Bandridge Ltd [1978] ICR 943, CA. Accordingly, if the claimant fails to argue that it was not reasonably practicable to present the claim in time, the tribunal will find that it was reasonably practicable – Sterling v United Learning Trust EAT 0439/14.

5.47:

> "Even if a claimant satisfies a tribunal that presentation in time was not reasonably practicable, that does not automatically decide the issue in his or her favour. The tribunal must then go on to decide whether the claim was presented "within such further period as the tribunal considers reasonable."…Thus, while it may not have been reasonably practicable to present a claim within the three-month time limit, if the claimant delays a further thee months, a tribunal is likely to find the additional delay unreasonable and decide that it has no jurisdiction to hear the claim.

12. And at 5.48, meaning of "reasonably practicable"

> "Judicial attempts to establish a clear, general and useful definition of "reasonably practicable" have not ben particularly successful. This is probably because cases are so varied and depend so much on their particular circumstances. However, in Palmer and another v Southend-on-Sea Borough Council [1984] ICR 372, CA, the Court of Appeal conducted a general review of the authorities and concluded that "reasonably practicable" does not mean reasonable, which would be too favourable to employees, and does not mean physically possible, which would be too favourable to employers, but means something like "reasonably feasible". Lady Smith in Asda Stores Ltd v Kauser EAT 0165/07 explained it in the following words: "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."

13. Although the claimant in this case has not advanced ignorance of rights or time limit, the IDS Handbook states as follows:-

> "5.50 A claimant's complete ignorance of his or her right to claim unfair dismissal may make it not reasonably practicable to present a claim in time, but the claimant's ignorance must itself be reasonable."

And at 5.54:

> "Where the claimant is generally aware of his or her rights, ignorance of the time limit will rarely be acceptable as a reason for the delay. This is because the claimant will generally be taken to have been put on enquiry as to the time limit."

14. And, as the claimant has advanced ill-health as a reason for delay, as per the IDS Handbook at 5.88:

> "A debilitating illness may prevent a claimant from submitting a claim in time. In Schultz v Esso Petroleum Co Ltd [199] ICR 1202, CA, the Court of Appeal accepted that illness may justify the late submission of claims… The Court emphasised that the test is one of practicability – what could be done – not whether it was reasonable not to do that which could be done. In the court's view, the tribunal had failed to have regard to all the surrounding circumstances, which included the fact that S had been trying to avoid litigation by pursuing an appeal against his dismissal. Although it was necessary to consider what could have been done during the whole of the limitation period, attention should be focused on the closing stages rather than the earlier ones. In this case S's disabling illness took place at the end of the period in question and it was not

reasonably practicable for him to have presented the claim in time."

The facts

15. The claimant was dismissed on 19 March 2024 and paid in lieu of notice. It is accepted that that was the effective date of termination of her contract of employment.

16. The three-month primary limitation time limit therefore expired on 18 June 2024.

17. The claimant notified Acas on 17 July 2024 and the certificate is dated 5 August 2024. There is thus no period of early conciliation time to be disregarded.

18. The claim was presented on 23 August 2024. The claim was therefore not presented within the three-month primary limitation time limit.

19. In her witness statement, the claimant explains the delay as follows:-

> "The delay in submitting my claim was not deliberate but the result of exceptional circumstances – namely, my poor mental health following an unfair dismissal and the absence of immediate support from my union. I now regret that I was not in the right frame of mind to act within the strict time limits, but I respectfully ask the tribunal to consider these circumstances and exercise its discretion to allow my claim to proceed."

20. The relevant time to consider the claimant's health is between 19 March and 18 June 2024. Unfortunately, the claimant has presented no medical evidence covering that period. The claimant has produced an extract of her GP records beginning on 15 August 2024 which has a diagnosis of depression, back disorder and plantar fasciitis. The history is recorded as follows:-

> "Patient still very stressed as has no income can't work due to back problems and plantar fasciitis. Did confront patient that she has missed numerous appointments and MRIs and we are reluctant to keep ordering things if she doesn't turn up to them. Suggested a sick note and told her social prescribing will be in touch."

21. I take into account that that does reference an earlier period as she was expressed to be "still very stressed". Despite that, the claimant has not taken the opportunity of presenting medical evidence to the effect that the medical condition rendered her incapable of taking appropriate actions to advance and present her claim.

22. In her witness statement the claimant says as follows:-

> "As a result [of her dismissal], I experienced a severe decline in my mental health. I became depressed, withdrawn, and unable to think clearly or take steps to challenge the dismissal. I contacted my union for support, but they were unable to assist me due to a lapse in membership payments. I also believe I attempted to contact Acas, although my recollection at the time is blurred due to my condition."

23. The claimant told me that she attempted to contact her union, the RCN, shortly after her dismissal. Due to the fact that she had let her subscriptions lapse, the union was unable to assist her. However, the claimant told me that they said they would send her some information. The claimant was less than clear as to whether she was sent any information. At one stage she suggested she had not read it but later said that she did not recall receiving anything. If she had not

received anything following an assurance that the union would send her some information, I find that she could and should have chased it up and obtained the information. The overwhelming likelihood is that an information sheet from her union relating to dismissal would have informed her of the time limits for presenting a claim.

24. The claimant has specifically referenced attempting to contact Acas at this time. However, in her oral evidence she thought that she had not and was confused. If she had attempted to contact Acas at that stage, that indicates to me that she was aware of the possibility of bringing a claim in the employment tribunal. Further, the claimant said that the reason she did not do anything further was that she thought she would have to pay a solicitor and that she could not afford to. The fact that the claimant was contemplating going to a solicitor tells me that she was aware that she may have legal rights concerning the circumstances surrounding her dismissal.

25. During this time the claimant was actively pursuing her appeal against the decision not to revalidate her registration with the NMC. There is a specific reference in the notes to the claimant's appeal hearing to her contacting the NMC in order to progress the matter.

26. In addition, the claimant appealed her dismissal and there was an appeal hearing on 21 May 2024. There is a transcript of the appeal hearing and it is clear to me that the claimant was well able to present her arguments in that hearing. Further, at no stage during that hearing was the claimant suggesting that her medical condition was preventing her from doing so.

27. Eventually the claimant did notify Acas on 17 July 2024. The certificate was issued on 5 August 2024. The claimant told me that when she contacted Acas on 17 July 2024 Acas informed her that she should have contacted them straight away after her dismissal. She was told that she should submit her claim within three months of being dismissed. She was told that there are circumstances where a late claim can be accepted but that she needed to submit her claim as soon as possible. I those circumstances, it is curious to me as to why the certificate was only issued on 5 August 2024 given the urgency. Acas quite often issue a certificate on the day of notification.

28. Be that as it may, the claimant waited a further 18 days before issuing her claim form. The claimant suggested that she was moving from London to Birmingham at the time and her depression meant that she procrastinated.

29. The claimant is clearly articulate and intelligent. She has a diploma from Birmingham City University. In addition, the claimant's daughter-in-law was clearly articulate and intelligent. The claimant went to visit her daughter-in-law within a week of her dismissal.

30. I quite accept that the claimant was depressed and stressed following her dismissal. However, I do not find that depression and stress affected her so greatly that she could not have actively pursued her claim. As already observed she was actively pursuing her NMC appeal and her appeal against her dismissal. Any ignorance of her rights or time limits I find to be unreasonable.

31. The claimant has presented no medical evidence concerning the relevant period. The medical evidence she has presented covers the period from August until

December 2024. During that period the claimant attended a hearing with the NMC in order to present her appeal, which was successful. Yet again, that demonstrates to me that the claimant's medical condition did not impair her ability to act rationally in proceedings.

32. Consequently, I have concluded that it was reasonably practicable for the claimant to present her claim in time.

33. Having made that conclusion, there is obviously no jurisdiction to hear this claim and it must be struck out.

Approved by:

Employment Judge Alliott

Date: 11 November 2025

JUDGMENT SENT TO THE PARTIES ON

.....17 November 2025.....

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FOR THE TRIBUNAL OFFICE

Notes

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/