EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 8000490/2025 Preliminary Hearing by Cloud Video Platform at Edinburgh on 9 and 10 September 2025

Employment Judge: M A Macleod

Mr L Bellinati	**Claimant** **In Person**
Amazon UK Services Limited	**Respondent** **Represented by** **Mr P Lockley** **Barrister**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Employment Tribunal is:

1. **That the claimant's claim of unfair dismissal is dismissed for want of jurisdiction; and**
2. **That the Tribunal has jurisdiction to hear the claimant's claims of discrimination on the grounds of disability and race.**

REASONS

1. The claimant presented a claim to the Employment Tribunal on 24 February 2025 in which he complained that he had been unfairly dismissed and discriminated against on the grounds of disability and race.

2. The respondent submitted an ET3 in which they resisted the claimant's claims.

3. Following an earlier Preliminary Hearing, the Tribunal listed this case for a Preliminary Hearing (Open) on 9 September 2025 to address a number of preliminary issues, which were set out in the Note following the earlier Preliminary Hearing issued by Employment Judge Eccles, Vice-President of Employment Tribunals (Scotland).

4. The respondent presented a Bundle of Documents which was relied upon by both parties at the Hearing. The Note by Employment Judge Eccles was produced at 94ff.

5. In her Note, the Employment Judge set out the points to be addressed at this Hearing, under different headings, as:

1. Unfair Dismissal

(i) does the claimant have qualifying service with the respondent to bring a claim of unfair dismissal?

(ii) If so, was the claim presented in time? and if not,

(iii) was it not reasonably practicable for the claimant to present the claim in time and should the period to present the claim be extended to 24 February 2025?

2. Disability Discrimination

(i) is the claimant a disabled person for the purpose of proceedings under the Equality Act 2010?

(ii) If so, was the claimant's claim for disability discrimination presented in time? if not,

(iii) Is it just and equitable to extend the period for presenting the claim to 24 February 2025?

3. Race Discrimination

(i) was the claimant's claim for race discrimination presented in time? if not,

(ii) is it just and equitable to extend the period for presenting the claim to 24 February 2025?

6. The claimant appeared on his own behalf at the Preliminary Hearing, and the respondent was represented by Mr Lockley, barrister.

7. In preparing for the Hearing, I noted that there was a document produced (220) which bore to be a letter dated 25 June 2024 from the Murieston

Medical Practice. I understood this to be an important adminicle of evidence, of relevance both to the dismissal itself and the question of whether or not the claimant was at the material time a disabled person within the meaning of section 6 of the 2010 Act.

8. On reading the letter, prior to the Hearing, I noted that the author of the letter was said to be Dr E Russell-Smith, who can be seen from the headed notepaper on which the letter was written to be one of the partners of the Practice at that time; and that the letter had been signed (pp) on his behalf. The signature of the person signing appeared to me to be that of Gillian Galloway, whose name also appears among the names of the partners at the head of the notepaper.

9. As it turned out, both names were familiar to me personally. I was at university at the same time as Dr Russell-Smith, and knew him at that time, though not well; I was at primary and secondary school and university with Dr Galloway, with whom I was more familiar.

10. I considered it necessary to declare this knowledge to the parties before we started the Hearing, lest they considered my continuing involvement in the case to be objectionable. In declaring my knowledge of both individuals, I disclosed that I had seen them very rarely since university (a considerable number of years) but that the last time I did see them, it was at a party approximately 10 years ago held by mutual friends, when I discovered that they were married to each other.

11. I gave the parties time to consider their positions, though the claimant immediately intimated that he had no objection to my continuing to conduct this Hearing. Mr Lockley indicated that he would wish time to seek instructions and consider the possible impact of this knowledge on the proceedings.

12. When the Hearing resumed, at 11.30am, Mr Lockley, entirely professionally and courteously, expressed concerns about my continuing to determine the question of disability status. He stated that in this case, the veracity of this price of medical information is at issue between the parties, in circumstances where it has been signed by one individual for another, where that latter has now retired. The fact that both persons are personal acquaintances of the two doctors, of some long standing albeit not close, meant that a reasonable observer may feel that there was a real chance that the Employment Judge would have a view as to the characters of those doctors, which would be brought into consideration in the case.

13. He also pointed out that I had disclosed to the parties something which was not previously known to them, that the two doctors were married. This may

be an issue where the respondent's position may be that one has acted improperly on behalf of the other. He said that the claimant had expressed some doubt as to the veracity of the letter.

14. Mr Lockley offered some potential solutions, for example that the letter should be given no weight at all, but given that the claimant is an unrepresented party litigant, and that these matters were being explained to him in translation, it would be difficult to be completely confident that an issue would not arise later in the case if that course were taken.

15. He proposed, therefore, that the issue of disability status be reserved to the final Hearing, and not be determined by me as sitting Employment Judge in these circumstances. The veracity of the letter may then be determined as part of the question of disability status, but also the question of the fairness of the claimant's dismissal. He proposed, further, that the Hearing on this occasion could proceed on the basis of determining the other outstanding issues, namely limitation and qualifying service, since the knowledge of the Employment Judge would not affect either issue.

16. This would allow this Hearing to be salvaged, rather than lost, when both parties had attended and were ready to proceed.

17. The claimant maintained his position that there was no reason for me not to deal with the issue of disability status, and that he wished to have all the issues addressed at this Hearing rather than being delayed. However, when the proposal made by Mr Lockley was explained to him, the claimant appeared to consent to it, but then expressed his misgivings that this might lead to unfairness to him, thus making clear that he continued to object to the proposal.

18. I then directed that this Hearing should not address the issue of disability status, which would be reserved for the Final Hearing in this case. I reassured the claimant that he would be able to refer to his condition in explaining any delays in presenting his claim to the Tribunal.

19. At this point, the claimant made clear that he was in considerable pain. He had not taken his pain medication on the previous evening in order to ensure that he was not impaired in any way in his ability to understand or communicate anything in the Hearing. After discussion, I directed that the Hearing be adjourned at 12.35pm until 9.50am on 10 September.

20. On the following morning, the claimant was able to continue with the Hearing, and to give evidence orally to the Tribunal, as well as being subject to cross-examination.

21. The claimant gave evidence on his own behalf, and submissions were subsequently heard from both parties.

22. Based on the evidence led and the information produced, the Tribunal was able to find the following facts admitted or proved.

Findings in Fact

23. The claimant commenced working at Amazon's depot at J4M8, Strand Drive, Livingston, West Lothian EH48 2EA on 22 September 2022.

24. He was offered the position of Sortation Associate by letter dated 2 December 2022 (114). Attached to that letter was a Statement of Terms and Conditions of Employment (116ff). In that Statement, it was confirmed that the claimant's employment would begin on 4 December 2022.

25. Further, the terms and conditions stated that the claimant's employment was not continuous with a previous period of employment.

26. The claimant had started working in the Amazon depot at Livingston on 22 September 2022. He was working under a contract with Adecco, an employment agency, which he described as "internal employment agents from Amazon". He did not know whether they were linked or separate, but said that there is an office of Adecco's in the premises of Amazon. He did not know the contractual relationship between Amazon and Adecco.

27. A "Main Supply Agreement" between Adecco International AG and the respondent was produced (128ff), together with a "Master Work Order for the Provision of Temporary Workers" (135ff). The latter was also between Adecco International AG and the respondent.

28. At paragraph 7.4 (137), the Order provided:

"The Contractor [Adecco International AG] undertakes to temporarily allocate Temporary Workers according to this Master Work Order to perform work with Amazon, by concluding a written agreement with the allocated Temporary Workers, which must contain all the details required by law. The Contractor will conclude an employment contract or an agreement on working activity with the temporarily allocated Temporary Workers, whereas the duration of the employment contract or agreement on working activity must not be shorter than the duration of the temporary allocation of the Temporary Workers to perform work for Amazon, as stated in the respective order…"

29. Neither party produced a copy of any written agreement between Adecco and the claimant in relation to the period between September and December 2022.

30. The claimant confirmed that between September and December 2022, he worked on Amazon's premises, carrying out the same duties as he did after December 2022. He was paid by Adecco – their name appeared on his payslips in that period – though it was noted that it was for "service for Amazon".

31. The claimant's position was that he worked for Amazon, whether under his contract with Adecco or his contract with Amazon, and that British laws recognise continuity of service even if there is a change of contract.

32. When he was absent due to illness between September and December, he said he had to contact Amazon to let them know he would not be attending work, via an app provided to him by Amazon.

33. On 10 October 2024, the respondent wrote to the claimant to advise him of the outcome of his disciplinary hearing on 18 September 2024, and the outcome meeting held on 1 October 2024 (259). In that letter, he was advised that *"Having considered the matter carefully I have decided to dismiss you without notice effective today 1st October 2024."* The reason given was that he had submitted a "non-genuine" medical letter to support a flexible working request.

34. The claimant's evidence was that he did not attend or participate in the meeting on 1 October 2024. In his claim form (7), he stated that his employment came to an end on that date, though in evidence, he insisted that his employment ended on 8 November 2024. He explained that he understood that he was dismissed on 1 October 2024, but that that decision was not confirmed until after the appeal on 8 November 2024. He said that he received the email containing the letter of dismissal very shortly after 1 October 2024.

35. The claimant was not paid in respect of any work carried out after 1 October 2024.

36. He went on to say that "British law" says that he should explore all resources available to him before taking the company to Tribunal, which he did by appealing against the decision to dismiss him.

37. The letter of dismissal did not state that his employment would continue beyond 1 October 2024, nor that it would only take effect when his appeal was concluded.

38. The claimant's effective date of termination was therefore 1 October 2024.

39. When he was dismissed, the claimant said that he knew nothing about Employment Tribunals, his right to make a claim or the procedural requirements of the Tribunal with regard to time limits.

40. He started to do some research on the internet and considered that he needed to do something about his dismissal.

41. He said that he found out about Employment Tribunals “more or less” on the date when his appeal was concluded on 8 November 2024. He tried to contact solicitors but was unable to find any who could assist him. He also tried to contact the Citizens Advice Bureau (CAB), and in December 2024, towards the end of the month, he attended at the Livingston CAB to seek advice. He was not a member of a trade union – he said that the respondent did not permit trade union membership.

42. The claimant found out that he needed to submit his claim to the Tribunal within 3 months less one day of his dismissal, but he understood he had to go through ACAS Early Conciliation.

43. The Early Conciliation Certificate (1) discloses that the claimant notified ACAS of his intention to make a claim against the respondent on 9 January 2025, and that he received the Certificate by email on 20 February 2025.

44. The reason why he did not contact ACAS before 9 January was, he said, twofold: firstly, his health was suffering at that time; and secondly, he had a long period to try to work out what he should do as he was unsure.

45. He said that ACAS advised him that he had to await the Early Conciliation Certificate, and he would have 30 days thereafter to submit his claim to the Tribunal.

46. He said that the CAB advised him that he had to submit his claim to the Tribunal within 3 months less one day from the date he received the outcome of his appeal.

47. With regard to his health, the claimant stated that he had suffered an accident in the bathroom of his house, in July 2024, which aggravated lesions on his left leg, resulting in the complete loss of feeling and movement in his leg. He described the pain as intense, and he required to take strong painkillers from that date, which he continues to rely upon. The medication he was taking was Amitriptyline; Notriptyline, Gabapentine, Cocodamol, Naproxin and Omeprazole (the last being an antacid to address pain in his stomach. The pain was so bad that he was unable to concentrate, and certain of the drugs caused him to be very sleepy, meaning that he was very slow to make decisions.

48. The claimant was able to attend the disciplinary hearing on 18 September 2024, but denied that he was in attendance at the hearing on 1 October 2024. The reason for that was that he was in pain, but also because he was extremely unhappy about what he considered mistreatment by the respondent in the disciplinary process.

49. The claimant was able to draft and submit an appeal letter following his dismissal, and also able to draft and submit his Employment Tribunal claim, notwithstanding the ongoing pain which he suffered, and continued to suffer to the date of the Hearing.

50. In the Note which the claimant presented to the Tribunal in advance of this Hearing, responding to the respondent's Note, the claimant stated that his intention "from the outset" was to advance a claim fundamentally based on discrimination and its causal link to his dismissal. He pointed out that he had acted without legal representation due to his inability to secure the assistance of any legal adviser.

51. It was put to the claimant in cross-examination that the CAB did not tell him that he had 3 months less one day from the date of his appeal outcome; he insisted that he was told this. When it was put to him that the CAB website contains advice different to this, he said that he did not speak good English. He went on to say that he may have misunderstood the advice given, and that he was not saying that they specifically gave him the wrong information, but he was giving evidence as to his understanding as to their advice.

52. The website of the CAB states that *"for most claims, you have 3 months less 1 day from when the event happened to start early conciliation. You'll then have at least a month to make a claim to the tribunal."*

53. The advice can be found at:

    https://www.citizensadvice.org.uk/work/employment-tribunal/employment-tribunals/before-you-go-to-the-tribunal/if-youre-thinking-of-making-a-claim-to-an-employment-tribunal/.

Submissions

54. Both parties made submissions to the Tribunal, which were fully noted and taken into consideration by the Tribunal in reaching its conclusions.

The Relevant Law

55. Section 111(2) of the Employment Rights Act 1996 provides:

"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."

56. What is reasonably practicable is essentially a question of fact and 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).

57. The best-known authority in this area is that of **Palmer & Saunders v Southend-on-Sea Borough Council** 1984 IRLR 119. The Court of Appeal concluded that "reasonably practicable" did not mean reasonable but "reasonably feasible". On the question of ignorance of the law, of the right to make a complaint to an Employment Tribunal and of the time limits in place for doing so, the case of **Porter (supra)** ruled, by a majority, that the correct test is not "whether the claimant knew of his or her rights, but whether he or she ought to have known of them." On ignorance of time limits, the case of **Trevelyans (Birmingham) Ltd v Norton** EAT 175/90 states that when a claimant is aware of their right to make a claim to an Employment Tribunal, they should then seek advice as to how they should go about advancing that claim, and should therefore be aware of the time limits having sought that advice.

58. Section 123(1) of the Equality Act 2010 provides that:

"Proceedings on a complaint within section 120 may not be brought after the end of –

(a) the period of three months starting with the date of the act to which the complaint relates, or
(b) such other period as the employment tribunal thinks just and equitable."

59. Section 123(3)(a) provides that *"conduct extending over a period is to be treated as done at the end of the period."*

60. Section 140B of the 2010 Act, inserted by Schedule 2 to the Enterprise and Regulatory Reform Act 2013, provides, at subsection (2):

"a. Day A is the day on which the complainant or applicant concerned complies with the requirement in subsection (1) of section 18A of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and

b. Day B is the day on which the complainant or applicant concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under subsection (11) of that section) the certificate issued under subsection (4) of that section."

61. Subsection (3) goes on: *"In working out when the time limit set by section 123(1)(a) or 129(3) or (4) expires the period beginning with the day after Day A and ending with Day B is not to be counted."*

62. Under subsection (4), the section now provides: *"If the time limit set by section 123(1)(a) or 129(3) or (4) would (if not extended by this subsection) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period."*

63. I also had regard to the authorities to which I was referred and which are of assistance in relation to this point.

64. I had reference to the well-known case of **Robertson v Bexley Community Centre t/a Leisure Link** [2003] IRLR 434, in which the court confirmed that it is of importance to note that time limits are exercised strictly in employment and industrial cases. *"When tribunals consider their discretion to consider a claim out of time on just and equitable grounds there is no presumption that they should do so unless they can justify failure to exercise the discretion. Quite the reverse. A tribunal cannot hear a complaint unless the applicant convinces it that it is just and equitable to extend time. So, the exercise of discretion is the exception rather than the rule."*

65. I also considered the important decision in **British Coal Corporation v Keeble and Others** [1997] IRLR 336, in which the EAT set out the factors which the Tribunal should consider in determining whether or not to exercise its discretion, namely the lengthy of and reasons for the delay, the extent to which the cogency of the evidence is likely to be affected by the delay, the extent to which the party sued had co-operated with any requests for information, the promptness with which the claimant acted once she knew of the facts giving rise to the action and the steps taken by the claimant to obtain advice once she knew of the possibility of taking action.

66. With regard to the question of employment status, the respondent referred to a number of relevant authorities.

67. I took account of **James v London Borough of Greenwich** [2008] EWCA Civ 35, in which the Court of Appeal expressly approved (at paragraph 50) the guidance given by the Employment Appeal Tribunal at paragraphs 53 to 61 of its decision ([2007] IRLR 168), including the following:

"[54] In the casual worker cases, where the issue is whether there is an umbrella or global contract in the non-work periods, the relevant question for the tribunal to pose is whether the irreducible minimum of mutual obligations exists. It is not particularly helpful to focus on the same question when the issue is whether a contract can be implied between the worker and end user. The issue then is whether the way in which the contract is in fact performed is consistent with the agency arrangements or whether it is only consistent with an implied contract between the worker and the end user and would be inconsistent with there being no such contract.

[55] If there were no agency relationship regulating the position of these parties then the implication of a contract between the worker and the end user would be inevitable. Work is being carried out for payment received, but the agency relationship alters matters in a fundamental way. There is no longer a simple wage-work bargain between worker and end user.

[56] In Dacas, Munby J was surely right when he observed that in a tripartite relationship of this kind the end user is not paying directly for the work done by the worker, but rather for the services supplied by the agency in accordance with its specification and the other contractual documents. Similarly, the money paid by the end user to the agency is not merely the payment of wages, but also includes the other elements, such as expenses and profit. Indeed, the end user frequently has no idea what sums the worker is receiving.

[57] The key feature is not just the fact that the end user is not paying the wages, but that he cannot insist on the agency providing the particular worker at all. Provided the arrangements are genuine and the actual relationship is consistent with them, it is not then necessary to explain the provision of the worker's services or the fact of payment to the worker by some contract between the end user and the worker, even if such a contract would also not be inconsistent with the relationship. The express contracts themselves both explain and are consistent with the nature of the relationship and no further implied contract is justified.

[58] When the arrangements are genuine and when implemented accurately represented the actual relationship between the parties – as is likely to be the case where there was no pre-existing contract between worker and end user – then we suspect that it will be a rare case where there will be evidence entitling the tribunal to imply a contract between the worker and the end user. If any such a contract is to be inferred, there must subsequent to the relationship commencing be some words or conduct which entitle the tribunal to conclude that the agency arrangements no longer dictate or adequately reflect how the work is actually being performed, and that the reality of the relationship is only consistent with the implication of the

contract. It will be necessary to show that the worker is working not pursuant to the agency arrangements but because of mutual obligations binding worker and end user which are incompatible with those arrangements.

[59] Typically the mere passage of time does not justify any such implication to be made as a matter of necessity, and we respectfully disagree with Sedley LJ's analysis in Dacas on this point. It will no doubt frequently be convenient for the agency to send the same worker to the end user, who in turn would prefer someone who has proved to be able and understands and has experience of the systems in operation. Many workers would also find it advantageous to work in the same environment regularly, at least if they have found it convivial. So the mere fact that the arrangements carry on for a long time may be wholly explicable by considerations of convenience for all parties; it is not necessary to imply a contract to explain the fact that the relationship has continued perhaps for a very extensive period of time. Effluxion of time does not of itself establish any mutual undertaking of legal obligations between the worker and end user. This is so even where the arrangement was initially expected to be temporary only but has in fact continued longer than expected. Something more is required to establish that the tripartite agency analysis no longer holds good."

68. The Tribunal also took account of the cases of **Smith v Carillion Ltd** [2015] EWCA Civ 209 and **Lutz v Ryanair DAC** [2025] EWCA Civ 849.

Discussion and Decision

1. **Unfair Dismissal**

(i) does the claimant have qualifying service with the respondent to bring a claim of unfair dismissal?

(ii) If so, was the claim presented in time? and if not,

(iii) was it not reasonably practicable for the claimant to present the claim in time and should the period to present the claim be extended to 24 February 2025?

69. I address firstly the question of whether the claimant was an employee of the respondent from 22 September 2022 until 4 December 2022. There is no dispute that the claimant was an employee of the respondent from 4 December 2022 onwards.

70. There is no contractual document produced by either party which shows the express terms of the arrangement in place between the claimant and Adecco International AG. The claimant gave evidence that he did have such a contract, and that it referred to Adecco. He also said that in his payslip for that period until 4 December 2022 he was paid by Adecco, in relation to the work carried out for Amazon.

71. There was no difference in the duties carried out by the claimant while he was working under the Adecco contract, in comparison with the duties carried out under the respondent's contract. He was working in the same place, doing the same job.

72. The only question is therefore whether, for that period, he was an employee of the respondent.

73. In my judgment, he was not. He was clearly working for Adecco. I have no evidence other than his, the Main Supply Agreement and the Master Work Order which were produced by the respondent (and which the claimant made clear he had not seen prior to receiving the bundle for this Hearing).

74. It is clear from the terms of the Work Order that the parties to that agreement (namely Adecco and the respondent) had agreed that Adecco would allocate temporary workers to the respondent, and conclude a written agreement with the allocated worker.

75. It is very unfortunate that no written agreement has been produced in this case to show the relationship between the claimant and Adecco, but the respondent does not hold a copy, since it is not a party to that agreement.

76. However, it is plain that the claimant was working for the respondent at the disposal of Adecco rather than Amazon. The Work Order provided that the arrangement could not exceed 39 weeks, and would be temporary. The respondent explicitly provided in their contract of employment with the claimant that no previous service would count for the purposes of continuity of employment, and in my view that makes clear that they were not the employer of the claimant until that date, that is, 4 December 2022.

77. The Supply Agreement provided, at paragraph 25, that the respondent and Adecco were independent contractors, and at paragraph 15, that Adecco had exclusive control over its employees, workers and others; that Adecco was solely responsible for paying salaries to its workers and that such workers were not entitled to participate in any compensation or benefits plans afforded to employees of the respondent.

78. The claimant's argument that he worked under the control and direction of the respondent while working in the Livingston site is a factor to be taken into consideration. However, I accept that the arrangement was truly one of an independent contractor who was employed by Adecco, working for and in the premises of the respondent, on a temporary basis. It is clear that it was temporary, as the arrangement came to an end after approximately 6 weeks.

79. There is no basis upon which I could find that the arrangements here were not genuine. The claimant's experience appears to be entirely consistent with the system put in place between Adecco and the respondent.

80. As a result, I consider that there is no reason to imply a different contract, between the claimant and the respondent, since it is clear that he was employed by Adecco between September and 4 December 2022, and not by the respondent.

81. In these circumstances, it is my conclusion that the claimant's employment with the respondent commenced on 4 December 2022, as stated expressly in his contract of employment.

82. The claimant's reference to British law allowing for continuity of employment to be imputed to an individual even where the contract changes is misguided. The circumstances in which prior service is counted for continuity of employment do not apply in this case. The claimant here was employed under an entirely separate contractual arrangement with Adecco before moving to a contract of employment with the respondent.

83. Since the claimant's employment ended on 1 October 2024, the claimant therefore lacks the minimum 2 years' qualifying service on which to base a claim of unfair dismissal, and accordingly, his claim of unfair dismissal fails and is dismissed for want of jurisdiction.

84. It is not necessary to consider whether the claim for unfair dismissal is time-barred, on the basis that the answer to the first issue is that the claimant lacks the necessary minimum qualifying service to make such a claim.

2. Disability Discrimination

(i) is the claimant a disabled person for the purpose of proceedings under the Equality Act 2010?

(ii) If so, was the claimant's claim for disability discrimination presented in time? if not,

(iii) Is it just and equitable to extend the period for presenting the claim to 24 February 2025?

3. Race Discrimination

(i) was the claimant's claim for race discrimination presented in time? if not,

(ii) is it just and equitable to extend the period for presenting the claim to 24 February 2025?

85. I turned then to consider the question of whether the Tribunal has jurisdiction to deal with the discrimination claims made by the claimant.

86. I reiterate that I am not addressing issue 2(i) above as that is deferred until a final Hearing, as required, for the reasons set out above.

87. The claimant's effective date of termination in this case was 1 October 2024. There was a little doubt in the claimant's mind as to precisely when he was informed of the decision to dismiss him, but the respondent's position was that he was sent this letter by email on 1 October 2024. There is a slight anomaly here, which was not resolved by the respondent giving evidence, in that the letter of dismissal was dated 10 October 2024, but it is clear from the claimant's own evidence that he received the email with the letter of dismissal attached either on 1 October or very shortly afterwards.

88. That being the case, the statutory time limit ran from 1 October 2024, and therefore the claim should have been presented by no later than 31 December 2024 in order to be submitted to the Tribunal in time.

89. The claimant's position was that his contract with the respondent ended on 8 November 2024, which was the date upon which his appeal concluded. He said that the CAB had told him that he had to await the outcome of his appeal before he could start to make his claim before presenting his Tribunal claim; however, under cross-examination, his evidence altered and he said that due to the fact that he did not speak English well, he may have misunderstood what the CAB was telling him. He receded further from the initial assertion by saying that he was not saying that they had specifically given him wrong information, but he was simply relating what he believed he had been told in that situation.

90. I do not find the claimant's evidence on this point to be reliable. I do not suggest that he was lying, but his own evidence changed during the course of the Hearing, and his final position did not go so far as to assert that ACAS had advised him that he could only submit his claim to the Tribunal after his appeal outcome was concluded. Further, I do not find it credible that such advice would have been given by the CAB, which would be very unlikely to give guidance which is not legally correct. I am not therefore persuaded that the claimant was told by the CAB that he could not present his claim to the Tribunal until after the appeal outcome was known to him. I was referred to the CAB website which does not give such advice, but makes clear that the time limit begins to run from the date of dismissal, and not the date of appeal.

91. The claimant is plainly an intelligent man, who, though restricted by his lack of fluency in English, has the assistance of his English-speaking wife. He

could readily have carried out research on the internet about the time limits inherent in the Tribunal process, but did not do so until November 2024. However, had he noted that the time limit required him to present his claim within 3 months of 1 October, he would still have considerable time within which to do so.

92. The claimant's explanation was also that he was in considerable pain, for which he needs to take very strong painkillers, which can affect his concentration. There is little medical evidence to suggest that, other than having to take painkillers, the claimant was adversely affected by his pain or medication such as to prevent him from carrying out the steps necessary to make his claim to the Tribunal. Within the 3 month time limit, the claimant was able to carry out research into his rights, as he said, following receipt of the appeal outcome. Further, the claimant was able to attend this Hearing and present his arguments cogently and clearly, while still suffering from pain at the same level and under the influence of painkillers.

93. The claimant did not contact ACAS to commence the Early Conciliation process until 9 January 2025. There is no clear reason given as to why he did not do so within the statutory timescale.

94. I deal here with one issue of importance arising out of the claimant's submission in this Hearing, addressed by the respondent in their submission: that is, whether the statutory time limit should be taken to start running from 8 November 2024, namely the date of the appeal outcome, as the claimant suggests that the final act of discrimination against him was constituted by the appeal outcome. The respondent's position is that the claim form itself only refers to the dismissal decision, and not to the appeal hearing itself.

95. The claimant's narrative in his claim form stated that on 1 October 2024, he was summarily dismissed while still ill, a decision upheld on 8 November 2024 by Ms Meg McIlveen, who dismissed racism claims without analysis, despite no concrete evidence against the claimant.

96. The respondent argues that the narrative does not specify that the appeal decision was an act of discrimination, and it is not mentioned in the "Legal Grounds and Violations" section of the ET1, which do not refer to Ms McIlveen. They said that the claimant only raised this issue as an act of discrimination after the respondent raised the issue of limitation.

97. In my judgment, the claimant has referred to Ms McIlveen's decision of 8 November 2024 as upholding the dismissal and dismissing racism claims without analysis, and has therefore made an assertion of wrongdoing about that decision related to the claimant's race. It may not be specified in the

appropriate section of legal pleadings, but the claimant is not a qualitied lawyer, and it would be unfair, in my view, to exclude this claim on the basis that it is not formally pled in the manner in which a legal representative would have set it out. The claimant has affirmed his position in this Hearing, that he is claiming that Ms McIlveen was guilty of race discrimination in her decision on his appeal on 8 November 2024.

98. The question, then, is whether the claim in respect of discrimination (on either ground) was raised in time. It appears that it was raised – brought to the attention of ACAS – within 3 months of the last unlawful act, namely the appeal decision of 8 November 2024, and that the claimant should therefore benefit from the extension of time granted by Early Conciliation, since the Early Conciliation Certificate was issued on 20 February 2025.

99. This gives rise to the question of whether or not that was the only unlawful act relied upon by the claimant: in this case, it was plainly not, as the dismissal and other acts prior to dismissal were included within the claim of discrimination made by the claimant.

100. If the alleged discrimination were the final act in a series of unlawful acts, then that may bring the prior claims within time for this Tribunal. In my judgment, the Tribunal may only safely conclude that the final act was part of a continuing series of acts of discrimination against him once the full evidence in the case has been heard.

101. Accordingly, I consider that the discrimination claims made by the claimant are in time, in relation to the final act of 8 November 2024; and that the question of whether that act brings earlier acts within time must be the subject of full evidence at the Final Hearing of this case.

102. I appreciate that the claim relating to the appeal of 8 November 2024 appears to relate primarily to the question of race, however, rather than that of disability, but disability is mentioned in the claimant's submission to this Hearing, in which he maintains that the appeal process was a mere pro form exercise, amounting to "perpetuated discrimination". He goes on to say that his testimony was disregarded despite his being, among other characteristics, "physically disabled". As a result, I am not convinced it would be correct to proceed on the basis that the claim is only one related to race when focusing on the appeal decision of 8 November 2024.

103. I have therefore concluded that the Tribunal has jurisdiction to hear the claimant's claims of discrimination on the grounds of disability and race, for the above reasons.

104. It does remain important, however, to note that the question of whether the alleged unlawful act of 8 November 2024 forms part of a series of

continuing acts, as the claimant appears to suggest, and that will require to be determined by the Tribunal once it has heard the whole evidence in the case.

Date sent to Parties **22 October 2025**