# EMPLOYMENT TRIBUNALS

| **Claimant** | | **Respondent** |
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| Mr R J Martin | **v** | Marshall Land Systems Limited |

**Heard at:** Cambridge **On:** 1 October 2025

**Before:** Employment Judge Tynan

**Appearances**
**For the Claimant:** In person
**For the Respondent:** Mr G Gaselee, Solicitor

**JUDGMENT** having been sent to the parties on 24 October 2025 and written reasons having been requested in accordance with Rule 60(4) of the Employment Tribunal Procedure Rules 2024, the following reasons are provided:

## REASONS

1. The Claimant was employed by the Respondent as a Project Manager from 21 November 2023 until 7 March 2024 when, I find, his employment terminated with immediate effect. The Claimant asserts that his employment did not terminate until 6 April 2024, namely at the end of his one-month contractual notice period. However, I am satisfied, as the Respondent contends, that it terminated his employment with immediate effect on 7 March 2024 with payment in lieu of notice. There is no evidence to support that the Claimant remained employed by the Respondent through his notice period, for example because he was placed on garden leave. On the contrary, the Claimant was explicitly advised that his employment was being terminated with immediate effect. His assertion of a later termination date, which might make his claim in time, is at odds with the fact that he gave a termination date of 7 March 2024 in section 5.1 of form ET1 and complained in section 8.2 of having been "instantly dismissed". This was also his view at the point at which he was dismissed, because he wrote to the Respondent on 8 March 2024 and asked to be reinstated, something it seems to me that he would not have done if he believed he was still employed by the Respondent. Robert Grant of the Respondent emailed the Claimant on 20 March 2024 to say that he would not be reinstated and confirmed that his employment with the

Respondent had already ended. The Claimant seems to have then asserted for the first time on 21 March 2024 that he was still employed by the Respondent pending the expiry of his notice period. However, if that was briefly his view in the matter, it was not a position he maintained when he presented his claim to the tribunals on 6 July 2024, when he stated that his employment with the Respondent had ended on 7 March 2024. Some months later, in an email to the Tribunal dated 6 January 2025, the Claimant again wrote of having been instantly dismissed on 7 March 2024. He was by then in receipt of a copy of the Respondent's ET3 and Grounds of Resistance. Notwithstanding he was therefore on notice that there was an issue as to whether his claim had been presented in time, he continued to say that his termination date was 7 March 2024. Similarly, he did not correct EJ Daley at a case management hearing on 7 July 2025 or, perhaps more pertinently, following the hearing, when the judge noted in the record of hearing that his employment with the Respondent had ended on 7 March 2024 and listed this hearing to determine whether the claim is out of time. The weight of evidence supports that the Claimant's employment by the Respondent ended on 7 March 2024.

2. Sections 111(1) and (2) of the Employment Rights Act 1996 provide as follows:

> (1) A complaint may be presented to an employment tribunal against an employer by any person that he was unfairly dismissed by the employer.
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> (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—
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> (a) before the end of the period of three months beginning with the effective date of termination, or
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> (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.

3. The effect of section 207B of the Employment Rights Act 1996 is to extend these time limits in order to facilitate conciliation. The Claimant notified his potential claims to acas on 27 May 2024. He did not, however, wait for an early conciliation certificate to be issued by acas, but instead presented a claim to the employment tribunals on 28 May 2024 when he was not yet in receipt of a certificate. In so far as he was seeking interim relief in respect of his dismissal, there was in fact no requirement to pursue early conciliation. However, that was not the end of the matter since section 128(2) of the 1996 Act additionally provides that any application for interim relief must be made within 7 days of the effective date of termination. The Claimant's application for interim relief was therefore submitted over 10 weeks out of time.

4. On receipt of the Claimant's application for interim relief it was allocated case number 3305428/2024, though at the direction of the Regional Employment Judge it was rejected on 14 June 2024 as the application had not been made within the requisite period of 7 days and there was no early conciliation certificate number on the claim form to support any other claim he might wish to make.

5. The Claimant sought reconsideration of the rejection of his application, furnishing the tribunal with a copy of an early conciliation certificate that had been issued to him on 31 May 2024. However, as the Employment Appeal Tribunal has confirmed in Pryce v Baxterstorey [2022] EAT 61, a certificate is not effective to validate a claim presented before the certificate was issued. In any event, the provision of a certificate could not remedy the fact that the application for interim relief had been made significantly out of time.

6. Even if I was persuaded that the Claimant did not appreciate this until 14 June 2024, the Claimant was on notice from that date that his application for interim relief was out of time. In which case, he still had until 30 June 2024 to submit a new claim if he wished instead to pursue claims as a whistleblower in respect of his dismissal and any alleged detrimental treatment.

7. The Claimant is reasonably knowledgeable about his employment rights and has shown himself capable of asserting them. For example, he raised a grievance the day after he was dismissed and appealed the outcome of the grievance when it was not upheld. From the outset he seems to have identified himself as a whistleblower, in that he alleged within his grievance that he had been dismissed following his exposure to allegedly fraudulent activity, this being the same complaint he makes in these proceedings. He accepts that he was aware of the time limits to notify and present claims. Putting aside for a moment whether he ought reasonably to have researched these issues sooner online, if the Claimant did not appreciate the need to submit an application for interim relief within 7 days of the effective date of termination and to be in possession of an early conciliation certificate before presenting any other claim, he was on notice of these matters from 14 June 2024. Indeed, given that the early conciliation certificate issued to him on 31 May 2024 includes a statement that the certificate number must be quoted on any application to the tribunal, he was potentially on notice of this aspect some two weeks earlier.

8. On the Claimant's evidence, he contacted acas on rejection of his claim and was advised by acas to present a new claim which included the early conciliation certificate number issued on 31 May 2024. It seems that he did not do so immediately but instead sought reconsideration of the rejection of his application for interim relief, something he must or, in my judgement, ought reasonably to have appreciated had no prospect of success given that the application for interim relief was significantly out of time. It was only after his request for reconsideration was inevitably rejected that he issued this claim. He may have done so promptly following the rejection of his reconsideration request but, in my judgement, he had by then already delayed unreasonably in the matter.

9. I remind myself that it is for a claimant to satisfy a tribunal that it was not reasonably practicable for them to present their claim in time. The Claimant has not explained why he did not make his interim relief application sooner than he did. He has not, for example, explained what research he undertook following his dismissal regarding the potential for such an application or any other claims against the Respondent. His delay in making the interim relief application had the effect of limiting the amount of time available to him to submit his whistleblowing claim. Accordingly, if he was under any pressure of time after his claim was rejected on 14 June 2024, this was essentially a situation of his own making. I do not think it is something I should disregard in coming to a view as to whether or not it was reasonably practicable for him to present this claim in time. In other words, I am not limited to considering the period following the rejection of his claim, rather I should consider matters in the round.

10. Be that as it may, in my judgement there was still sufficient time available to the Claimant after 14 June 2024 to present a claim. By 27 May 2024 at the latest he had resolved to pursue a claim and understood the need to contact acas before he could do so. He does not say when or how he came to that understanding. An obvious place to look for information about acas early conciliation would be the acas website which contains detailed, readily accessible and easy to understand information about early conciliation, including that following conciliation a claimant will be issued with a certificate containing a number that will be needed for the ET1. In my judgement, this would be sufficient information to put a claimant on notice that they should only submit a claim once they are in possession of an early conciliation certificate. The Claimant has not explained why, if it is the case, he did not understand this or, if so, why he says he could not have discovered this sooner than he did, namely on receipt of the early conciliation certificate or following the initial rejection of his claim on 14 June 2024. He has not suggested any health issues or other personal circumstances of his which might explain any lack of understanding or action on his part. This is not a case of a young worker with limited workplace experience, rather a worker in his 50s with ready access to the internet who has been advocating his rights from the point at which he was dismissed. In my judgement, when his claim was rejected on 14 June 2024, if he had not already researched the steps he needed to take, the Claimant had a responsibility to research the situation without delay, particularly as he was aware of the time limits for bringing a claim. I find that he knew he would be timed out after 30 June 2024. In so far as he says he acted on advice from acas, on his own account their advice was that he should submit a new claim. In any event, he had a responsibility to research the matter for himself. He has failed to put any information before the Tribunal in this regard, specifically why he sought reconsideration of the rejection of his interim relief application rather than submit an in-time claim in respect of his substantive whistleblowing complaints.

11. The Claimant has failed to satisfy me that it was not reasonably practicable for him to present this claim to the employment tribunals by 30 June 2023. In the

circumstances, I shall dismiss the claim on the basis that it has been presented out of time.

Approved by:

**Employment Judge Tynan**

Date: 17 November 2025

Sent to the parties on: 20/11/2025

For the Tribunal Office

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