



EMPLOYMENT TRIBUNALS

Claimant: Junior Purrier
Respondent: Leaving Care Solutions Limited
Heard at: Croydon by CVP
On: 15 October 2025
Before: Employment Judge Liz Ord

Representation:

Claimant: In person
Respondent: Mr P Keith (counsel)

JUDGMENT having been given orally on 15 October 2025 and the written record having been sent to the parties, subsequent to a request for written reasons in accordance with Rule 60(4) of the Employment Tribunals Rules of Procedure, the following reasons are provided.

REASONS

The Complaints and Issues

1. The complaints and issues for the tribunal were first agreed at a case management hearing on 7 February 2025 and were amended by agreement at today's hearing.
2. The claimant complains of:
 - 2.1. Unauthorized deduction of wages under section 13 of the Employment Rights Act, and/or
 - 2.2. Unpaid annual leave under the Working Time Regulations.
3. The issues for the tribunal are set out in the attached Annex.

Evidence

4. The tribunal had before it the following documentary evidence:
 - 4.1.a documents bundle (301 electronic pages), 3 witness statements on behalf of the claimant and 1 witness statement on behalf of the respondent.
5. On behalf of the claimant the tribunal heard evidence on oath from:
 - 5.1. Junior Purrier (the claimant).
6. On behalf of the respondent the tribunal heard evidence on oath from:
 - 6.1. Oliver Martin (Payroll Manager).
7. Number references in brackets [01] are to the documents bundle. References in brackets in the format [XX 01] are to paragraph numbers within witness statements.
8. Only findings of fact relevant to the issues, and those necessary for the tribunal to determine, have been referred to in this judgment. It has not been necessary, and neither would it be proportionate, to determine each and every fact in dispute. The tribunal has not referred to every document it read and/or was taken to in the findings below, but that does not mean it was not considered if the tribunal was taken to the document in evidence or as part of a reading list. The tribunal notified the parties at the outset of the hearing that they would only read documents that they were specifically referred to and would only read documents referred to in witness statements insofar as they were identified as being relevant to an issue in the case.

The Law

Payments in respect of leave

9. The Working Time Regulations 1998 provide most relevantly –

Regulation 16 Payments in respect of leave

- (1) A worker is entitled to be paid in respect of any period of annual leave to which he is entitled under regulation 13 and regulation 13A, at the rate of a week's pay in respect of each week of leave.

Regulation 30 – Remedies

- (1) A worker may present a complaint to an employment tribunal that his employer –
 - (a) ...
 - (b) has failed to pay him the whole or any part of any amount due to him under regulation 14(2) or 16(1)

Unauthorised deduction from wages

10. Section 13 of the Employment Rights Act 1996 (ERA) states most relevantly:

- (1) An employer shall not make a deduction from wages of a worker employed by him unless -
 - (a) the deduction is required or authorised to be made by virtue of a statutory provision or a relevant provision of the worker's contract, or
 - (b) the worker has previously signified in writing his agreement or consent to the making of the deduction.

Time limits

11. Section 23 of the ERA states most relevantly:

23(2):

Subject to subsection (4), an employment tribunal shall not consider a complaint under this section unless it is presented before the end of the period of three months beginning with –

- (a) in the case of a complaint relating to a deduction by the employer, the date of payment of the wages from which the deduction was made, or
- (b) in the case of a complaint relating to a payment received by the employer, the date when the payment was received.

23(3):

Where a complaint is brought under this section in respect of –

- (a) a series of deductions or payments
- (b) ...

the references in subsection (2) to the deduction or payment are to the last deduction or payment in the series or to the last of the payments so received.

23(4):

Where the employment tribunal is satisfied that it was not reasonably practicable for a complaint under this section to be presented before the end of the relevant period of three months, the tribunal may consider the complaint if it is presented within such further period as the tribunal considers reasonable.

12. Regulation 30(2) Working Time Regulations 1998

An employment tribunal shall not consider a complaint under this regulation unless it is presented-

- (a) before the period of three months beginning on the date on which it is alleged that the exercise of the right should have been permitted...

(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.

Findings of fact, discussion and conclusions

13. The claimant was employed by the respondent on and off for several years. He was last employed by the respondent from 17 August 2022 to 9 August 2024.
14. It is common ground that the respondent did not include overtime and sleep-in pay when calculating holiday pay for the claimant prior to 1 January 2024. From 1 January 2024, when there were changes to the law, overtime and sleep-in pay was included in the calculation of holiday pay. This is shown in the claimant's pay slips from January 2024, which have entries for "holiday top up", which was the additional holiday pay calculated on the previous 52 weeks' earnings including overtime and sleep in pay.
15. The 28 January 2024 payslip covered the December 2023 pay period, that included 135 hours of properly paid holiday pay. Thereafter, the payslips and the evidence from Oliver Martin, the Payroll Manager, show that the claimant was paid his holiday pay based on his pay for the previous 52 weeks including overtime and sleep-in pay. From the evidence I have seen and heard, the claimant was paid his correct holiday pay from 28 January 2024 payment.
16. This raises the issue of time limitation for the payments covering the period prior to December 2023, as any series of deductions/shortfalls ended on 28 December 2024, when the claimant received his November 2023 pay. Given that there is a 3 month time limit on bringing a holiday pay claim, the last day for presenting the claim on time was 27 March 2024.
17. ACAS early conciliation started on 3 July 2024 and ended on 14 August 2024. The claim was presented on 24 August 2024. As ACAS conciliation started outside the limitation period, it cannot extend time.
18. The claimant says that there is no time limitation because he was prevented from taking holidays in December, and therefore, according to King v Sash Windows Workshop Ltd this annual leave is carried forward so the deduction is taken to be on termination of his employment for the purposes of time limitation.
19. He bases his argument on the fact he asked for annual leave for 3 days on 2, 3, and 4 December 2023. He agrees that he did not take these days as holiday rest days, but he says he wanted to sell them back to the respondent to boost his earnings, whilst still working. The claimant worked these days and there is no record of any holiday pay being paid. The respondent's case is that no holidays were taken or paid for on these dates. The evidence supports the respondent's submission and I accept it.
20. This is not a situation where there was no mechanism for taking paid leave, as in King and, in fact, at the time of termination of his employment, the claimant

had taken annual leave over and above his entitlement. Therefore, King is distinguished and cannot be relied upon.

21. Accordingly, the claim is out of time. Therefore, I must consider whether it was reasonably practicable for the claimant to bring the claim in time and, if it was not reasonably practicable, whether the claimant brought it within such further time period as was reasonable. Reasonably practicable means reasonably feasible. The onus of proving this is on the claimant.
22. The claimant has provided little evidence of why it was not reasonably practicable for him to bring his case in time. Whilst he gave evidence that he did not know that he had a claim, the evidence shows that he did know by 3 June 2024 when he wrote to the respondent requesting back pay and, at the latest, on 28 June 2024 when the respondent replied saying they would not pay that back pay.
23. Although the claimant gave evidence that ACAS advised him on 3 July 2024 to try and settle his claim with the respondent before issuing proceedings, that does not assist the claimant, as poor advice cannot justify the delay. Also of relevance is the change in the claimant's pay slip on 28 January 2024, which showed for the first time "holiday top up", which was a new entry and should have put him on notice of any outstanding holiday pay he felt he may have been entitled to.
24. The reasonably practicable test is a strict one. The claimant has not persuaded me that it was not reasonably practicable to present the claim in time. In any case, the claim was not brought within a reasonable time period thereafter. Therefore, the tribunal does not have jurisdiction to hear the claimant's claims relating to holiday pay for the period prior to December 2023. Consequently, they are dismissed.

Employment Judge Liz Ord
Date 31 October 2025

JUDGMENT SENT TO THE PARTIES ON
6 January 2025

FOR THE TRIBUNAL OFFICE

P Wing

Notes

Public access to employment tribunal decisions

Judgements and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions

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shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

ANNEX

AGREED LIST OF ISSUES

1. Time Limits

- a. Given the date the claim form was presented and the dates of early conciliation, any complaint about something that happened before **4 April 2024** may not have been brought in time.
- b. Was the unauthorised deductions/unpaid annual leave complaint made within the time limit in section 23 Employment Rights Act 1996 / regulation 30(2) Working Time regulations 1998? The Tribunal will decide:
 - i. Was the claim made to the Tribunal within three months (plus early conciliation extension) of the date of payment of the wages from which the deduction was made/ date payment of annual leave should have been made?
 - ii. If not, was there a series of deductions and was the claim made to the Tribunal within three months (plus early conciliation extension) of the last one?
 - iii. If not, was it reasonably practicable for the claim to be made to the Tribunal within the time limit?
 - iv. 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?

2. Holiday Pay

- a. How much paid leave had the claimant taken in the year?
- b. Was the claimant paid correctly for the leave he took in the year?
- c. What is the relevant daily rate of pay?

3. Unauthorised Deductions

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- a. Were the wages paid to the claimant on the dates he took annual leave [to be inserted once the claimant clarifies the dates] less than the wages they should have been paid?
- b. Was any deduction required or authorised by a written term of the contract?
- c. How much is the claimant owed?

Shakespeare Martineau LLP

15 October 2025