



EMPLOYMENT TRIBUNALS

Claimant: Miss M C Pillar

Respondent: Tooting Medical Centre

Heard at: London South (by video)
2026

On: 20 February

Before: Employment Judge Bradford

Representation

Claimant: In Person

Respondent: Ms E Farrow, Director

JUDGMENT

1. The complaint of age discrimination was not presented within the applicable time limit, however it is just and equitable to extend the time limit. This complaint can therefore proceed.
2. The complaint of unfair dismissal was not presented within the applicable time limit. It was reasonably practicable to do so. The complaint is therefore dismissed.

REASONS

1. This was a preliminary hearing to determine time limits. The Claimant's case is that she was unfairly dismissed on 6 October 2023 and that she was discriminated against on the ground of age. ACAS was contacted on 1 November 2023 and issued a certificate on 3 November 2023. The last date for filing of the ET1 was 7 January 2024. It was in fact filed on 29 January 2024.
2. The Claimant's evidence was that she understood, having consulted a law centre, that she had 3 months to file the discrimination claim and 6 months to file her unfair dismissal complaint. She then instructed a legal representative. This person does not appear to have been a solicitor, but was engaged via a law firm. He contacted ACAS on the Claimant's behalf at the beginning of November 2023 and the Claimant believed he was awaiting to hear back from ACAS throughout December. There was no contact between her and her representative that

month. The Claimant's evidence, which I accepted was that she believed the representative knew what he was doing. She relied on him to file the claim in time. On 5 January 2024 the representative sent the Claimant a draft claim form, saying it needed to be signed/filed the following day.

3. The Claimant checked the ET1 on 5 January and emailed her representative saying that her address needed to be updated, but in other respects confirmed agreement to the ET1. She does not know when her representative posted it, but as he had said the latest day to send it was 6 January, she believed he would have sent it on either 5 or 6 January. She believed that he overlooked the amendment to her address and the form was filed containing her previous address. She therefore only became aware that it had been incorrectly filed on 24 January 2024 when she received an email from the Tribunal telling her that the ET1 returned to her by post had been undeliverable as she was not at the address it was sent to.
4. The Claimant contacted her legal representative on 24 January and the ET1 was re-filed. She received confirmation from the Tribunal on 30 January that it had been received on 29 January 2024.
5. The Claimant's position was that she reasonably relied on her representative and responded quickly to everything he sent. She acknowledged that the incorrect address on the ET1 caused some delay, however she was not responsible for that as she had given her representative her correct address before the ET1 was filed.

Discrimination complaint

6. The Claimant's case includes that her dismissal was discriminatory due to her age. As such, time is calculated from the date of the dismissal.

Dismissal	6.10.23
ACAS receipt	1.11.23
ACAS certificate	3.11.23
ET1	29.1.24

7. It follows that events before 28.10.23 are, on their face out of time. There is no suggestion of any continuing act ongoing up to 28 October, as that was after the date of the dismissal.
8. The ET1 should have been filed by 7.1.24 in order for the claim to be filed in time.
9. The question is whether it is just and equitable to extend time.
10. Time limits in relation to the discrimination claim are dealt with by s123 Equality Act 2010 (EqA):

123 Time limits

(1) Subject to sections 140B, proceedings on a complaint within section 120 may

not be brought after the end of—

(a) the period of 3 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.

11. The Court of Appeal judgment in Robertson v Bexley Community Centre [2003] EWCA Civ 576 stated that it is for the applicant to convince the Tribunal that it should exercise discretion and determined that it is just and equitable to extend time. This is a question of fact, and the tribunal has a wide discretion.
12. Nonetheless, time limits are to be strictly observed in Employment Tribunals; Miller and others v Ministry of Justice and others EAT 0003/15.
13. In deciding whether it would be just and equitable to extend time, I have had regard to the five factors under s. 33 of the Limitation Act 1980 as referenced in British Coal Corporation v Keeble [1997] IRLR 336. These are the length and reason for delay, the extent to which the cogency (or power) of the evidence is likely to be harmed by delay, the extent to which the respondent co-operated with any request for information, the promptness with which the claimant acted once aware of the facts giving rise to the possibility of taking a claim in the Employment Tribunal, the steps taken by the claimant to take advice once she knew of the possibility of taking a claim.
14. In doing so I bore in mind the guidance of Lord Justice Underhill in Adedeji v University of Birmingham NHS Trust [2021] EWCA Civ 23 that the above factors are not to be applied by the Tribunal in a mechanistic manner. Instead, the recommended approach is to:

“assess all the factors in the particular case which it considers relevant as to whether it is just and equitable to extend time, including in particular the “length of and reasons for delay”.
15. This approach was confirmed in Abertawe Bro Morgannwg University Local Health Board v Morgan [2018] EWCA Civ 640:

“factors which are almost always relevant to consider when exercising any discretion whether to extend time are: (a) the length of, and reasons for the delay and (b) whether the delay has prejudiced the respondent (for example, by preventing or inhibiting it from investigating the claim while the matters were still fresh”.
16. The length of the delay was three weeks and one day. It is not possible to establish on the evidence before me whether the representative would have filed the claim on time had they correctly filed it initially, but it is apparent that there was an awareness on their part of the applicable time limit of three months. The Claimant relied on her representative and responded by return to his correspondence.
17. The reason for the delay is the representatives failure to correctly file the ET1 (he sent it by post to the local tribunal centre) and some further delay in re-filing was

caused by the representative failing to update the Claimant's address on the form.

18. As to prejudice to the Respondent, I find this is extremely limited. Ms Farrow relied on the delay in being informed of the claim after it was correctly filed. She said this had been 8 months and had negatively impacted on her ability to defend it as witnesses had left her employment. However this is not a consequence of the 3 week delay in the claim being filed. Further, as director of the Tooting Medical Centre, she would likely be the person to give evidence on the terms on which the Claimant worked for her and evidence as to why the Claimant's work with the centre came to an end. As such, I do not find that the 3 week delay caused any genuine prejudice to the Respondent.
19. I find the claimant acted promptly when she became aware that the claim had not been correctly filed. I am further satisfied that she reasonably relied on her representative with regard to the date for filing. It is apparent that she is likely to have misunderstood the advice she was given at the law centre, because English is not her first language. I find that she has been honest in her evidence to the Tribunal, in that she said she was told that a 3 month time limit applied to part of her claim. It is correct that a 6 month time limit applies to another part (the statutory redundancy payment).
20. In summary, having taken steps to inform herself as to time limits, the Claimant instructed a legal representative in good time. She acted promptly at every stage. Evidence will need to be tested at the final hearing, but this is not a matter which on its face has no or little reasonable prospect of success. The Claimant is saying in effect that the redundancy situation was a sham because the Respondent wanted a younger person in the role. The prejudice to the Claimant of her discrimination complaint being time barred will be significant, whereas the prejudice to the Respondent is negligible. The Claimant has persuaded me that it is just and equitable to extend time, and so I do.

Unfair Dismissal

21. Section 111 Employment Rights Act 1996 (ERA) provides that the ET "shall not consider a complaint" unless it was presented (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 ET 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 three month period.
22. The language of section 111 makes clear, the time limit provided goes to the ET's jurisdiction to hear the complaint; as Elias LJ observed in Radakovits v Abbey National plc [2010] IRLR 307:

"... time limits in the context of unfair dismissal claims go to jurisdiction, and that jurisdiction cannot be conferred on a tribunal by agreement or waiver: The reason is that the language of section 111(2) of the Employment Rights Act ... provides in terms that a tribunal "shall not consider" a claim of unfair dismissal unless it is lodged in time. That is what makes these issues jurisdictional rather than mere limitation issues".

23. In Palmer and anor v Southend-on-Sea Borough Council 1984 ICR 372, CA, the Court of Appeal 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*".
24. Where a Claimant has a legal representative, as here, it will normally be presumed that it was reasonably practicable to present the claim in time. As Lord Denning MR put it in Dedman v British Building and Engineering Appliances Ltd 1974 ICR 53, CA: "*If a man engages skilled advisers to act for him — and they mistake the time limit and present [the claim] too late — he is out. His remedy is against them*".
25. There was no mistaken belief here, the legal representative was aware of the time limit. This is apparent from him telling the Claimant that the last day for her ET1 to be sent was 6 January (the deadline was indeed 7 January).
26. By acting with diligence and checking the method for filing, information readily available online, the legal representative could and should have correctly filed the claim in time.
27. As such, I find that it was reasonably practicable for the claim to be filed in time. It follows that I cannot exercise discretion and extend time, as in this circumstance, the tribunal simply does not have jurisdiction, in view of the words of s111 ERA.
28. Finally, the Claimant's claim for statutory redundancy pay is in time, subject to her qualifying for such a payment, as the time limit is 6 months in accordance with s164 ERA.

Employment Judge Bradford

Date: 20th February 2026

JUDGMENT & REASONS SENT TO THE PARTIES ON

19th March 2026

For the Tribunal Office