



EMPLOYMENT TRIBUNALS

Claimant: Mr Joseph Nwadukwe

Respondent: Red Handling UK Limited

Heard at: London South (in public by video) **On:** 21 January 2026
(in chambers) **On:** 6 May 2026

Before: Employment Judge N Wilson

Appearances
For claimant: Mr Nwadukwe (in person)
For respondent: Ms Nicholson (litigation consultant)

JUDGMENT

1. The complaint of unauthorised deductions from wages is well-founded. The respondent made unauthorised deductions from the claimant's wages between 21 October 2024 and 17 March 2025.
2. The respondent shall pay the claimant **£14,014.35** within 14 days of the date this Judgment is sent to the parties, which is the gross sum deducted. The claimant is responsible for the payment of any tax or National Insurance.

REASONS

Background

1. The claimant issued an ET1 on 31 July 2025. ACAS early conciliation started on 2 July 2025 and ended on 2 July 2025.
2. The claimant brings a claim for nonpayment of wages for a period between 21 October 2024 and 17 March 2025. The last deduction identified on the ET1 was made on 17 March 2025.
3. The claimant was employed with the respondent as a baggage tracing agent from 1 November 2022 until his resignation on 8 January 2026. His employment was transferred under the TUPE regulations 2006 to the respondent as of 8 April 2023.

4. The matter was listed for a final hearing on 21 January 2026. The hearing was listed for **2 hours**. Having not filed a response in time the respondent filed a late application the day before this final hearing for permission to file their response out of time. Unfortunately, this took up time in the hearing. I heard evidence from the respondent's Ms S Williams about why they had not filed their response in time and then delivered my decision in respect of the application.
5. The respondent's application to file their response out of time (made after 5 pm on 20 January 2026, the evening before the final hearing) was refused at the final hearing. Neither the application nor draft response made any reference to the claimant's claim being out of time.
6. I therefore heard unchallenged oral evidence from the claimant.
7. I had the following documents from the claimant as evidence to support his claim:
 - a. Employment contract with the respondent
 - b. Payslips
 - c. Grievance and grievance outcome
 - d. Resignation letters
8. The claimant states he was suspended without pay for the period he seeks unpaid wages for. He submitted a grievance and states the outcome of the grievance was that he will be repaid all lost wages for the relevant period but to date has not received those wages.
9. He calculates the loss at £14,000 based on his payslips.
10. Section 13 (1) of the Employment Rights Act 1996 ("ERA 1996") creates a right not to suffer an unauthorised deduction from wages.

Findings of fact

11. I accepted the claimant's evidence (both orally and in his ET1) that he should not have been suspended and that he was because the respondent failed to get his verification correct in relation to his visa. He gave unchallenged evidence that:
 - a. He was entitled to continue to work as his application was made before the expiry of his visa.
 - b. The respondent therefore ought not to have suspended him without pay
 - c. He raised a grievance about the respondent not being able to withhold his pay and/or prevent him from working
 - d. The outcome of the grievance was an agreement from Mr Peppard to pay the wages that had not been paid to him for the relevant period,
 - e. I accepted the unchallenged evidence about his calculation of the wages which would have been due to him based on his pre suspension earnings/shift pattern

- f. The employment contract does not appear to allow reduced or no pay during a suspension
 - g. The claimant's evidence about the suspension without pay not being permitted in the circumstances was not challenged.
 - h. I take note that even if the claimant had moved from suspension to a period of sick leave (given the evidence of Ms Williams about why the respondent was unable to contact the claimant direct about the missing claim form which she gave in the respondent's earlier application to extend time for their response) I have no evidence that the claimant's sickness rather than suspension was the real reason for the absence during the relevant period **(Wright v Weed Control Ltd 2007 UKEAT/0492/07)**
12. Whilst his case is that the unlawful deductions continued after the 17 March 2025, notably the claimant had not made any application to amend the claim to include those ongoing deductions and nor did I hear any evidence from him to be able to support deductions beyond the period he seeks recovery of unpaid wages for in his ET1.
13. Based on the unchallenged evidence of the claimant I therefore found at the hearing which took place on 21 January 2026 that the claimant's claim for unauthorised deduction from wages under section 13 of the ERA 1996 was well founded and the respondent was ordered to pay the claimant the sum of **£14,014.35** for deductions made within 14 days of the date of the Judgment.
14. After delivering oral judgment and before promulgation of the written Judgment it became apparent to me that based on the last date in the series of unauthorised deductions being claimed, and the date of ACAS early conciliation that the claims were out of time, and the Tribunal therefore has no jurisdiction to hear them.
15. The last deduction claimed on the claimant's ET1 is 17 March 2025. ACAS early conciliation started on 2 July 2025 and ended on 2 July 2025. The claim form was issued on 31 July 2025. The notification to ACAS was out of time based on the date of the last unauthorised deduction claimed and the claim form has also accordingly been issued out of time. The claimant had 3 months less one day to bring the claim from the last alleged unlawful deduction. The payslips submitted by the claimant in evidence show the claimant was paid on or around the 10th of each month.
16. Regrettably this did not come to my attention until after the hearing (primarily because of a very late application to extend the time to file and serve a response received very shortly before the hearing was due to start, which I had to deal with as a preliminary matter leaving less time for the substantive hearing). However technically the Tribunal has no jurisdiction to hear this claim. It was therefore in the interests of justice for me to reconsider my own Judgment under Rule 68 of the ET Rules of Procedure 2024
17. Therefore, I immediately wrote to the parties following the hearing to inform them that in the interests of justice the judgment given orally at the hearing which took place on 21 January 2026 would be reconsidered.

18. I gave both parties the opportunity to write in with any objections to this within 14 days (none have been received). I also gave the claimant the opportunity to submit a witness statement about why he did not contact ACAS sooner than 2 July 2025 in relation to the deductions set out in his original ET1. His statement was to include any information he obtained or knew about time limits to bring such a claim in the Employment Tribunal.
19. As the claim has not been made in time I will need to consider whether it was reasonably practicable for the claimant to have made the claim in time and if I decide it was not, then whether it was made within a reasonable period. If I conclude it was not, then the claim will be dismissed as the Tribunal will have had no jurisdiction to hear it.
20. The claimant in response has submitted a 3-page witness statement dated 22 January 2026 which was amended and resubmitted on 26 January (dated 24 January 2026), and a summary note on jurisdiction and timing. The statement also had attachments comprising of extracts from his GP records, and a letter setting out the outcome of his grievance from the respondent confirming that he will be reimbursed lost income between 21 October 2024 and 25 March 2025.

Reconsideration

21. I apologise for the delay in providing this decision primarily due to me being on leave for several weeks in February, March and April of this year (almost 7 weeks combined over this time period).
22. The claimant was clearly able to present his ET1 claim by the date he did on 31 July 2025. This was following ACAS conciliation which commenced on 2 July 2025.
23. According to his ET1 the last deduction was made on 17 March 2025 (when he was invited to return to work). The ET1 says the grievance outcome was that the respondent agreed to reimburse him for lost wages from 21 October 2024 to 17 March 2025.
24. The letter I have received from the claimant in relation to this reconsideration confirms the respondent agreed to reimburse the claimant for lost income between 21 October 2024 and 25 March 2025. The claimant therefore knew about this from the date of the outcome letter on or around 21 May 2025. It is notable at that time he was informed by the respondent that he would be reimbursed those wages.
25. Even assuming the last in the series of deductions was 25 March 2025 (and not 17 March 2025 as per his ET1) the claimant's claim is still presented out of time.
26. The claimant's witness statement says although his formal grievance referred to reimbursement to March 2025 the respondent continued to fail to pay his wages beyond that date. He says his unpaid salary should properly be regarded

as the salary due on 10 June 2025 consistent with the respondent's monthly pay cycle. He says his period of unpaid wages runs from 23 October 2024 to 10 June 2025. However, this is clearly not what his ET1 says and nor did I hear any oral evidence about continuing deductions beyond the period referred to in the claim form. Nor was any application to amend made at the hearing to include any ongoing deductions. His witness statement specifically refers to him not updating his ET1 to include this because he did not understand the importance of this because he is not legally trained. He says he intended to clarify that he was owed more wages, but he chose not to prolong proceedings.

27. His position is that because the unlawful deductions continued until June 2025 when he contacted ACAS on 2 July this notification was done in time.
28. He refers to circumstances affecting time limits. During this period, he was undergoing some medical procedures (there is evidence appended to his witness statement from his GP records confirming he was fast tracked to hospital for suspected lower GI cancer on or around 26 June 2025). He says this health issue significantly impacted his ability to take immediate legal action or fully understand and act upon applicable time limits.
29. In relation to his knowledge of time limits he was not aware of the precise time limits for bringing an Employment Tribunal claim. He believed he should first follow the grievance process and attempt internal resolution. He relies on the grievance outcome and the respondent accepting that he was due to be repaid the unpaid wages. He says once it became clear the respondent was not going to resolve the matter or repay the sums owed (after the June 2025 payroll), he contacted ACAS as soon as he reasonably could.

The legal framework

Jurisdiction

30. Time limits are not mere procedural niceties that can be waived by the parties. Rather, they are a fundamental limitation on the right to have a claim determined, and they go to the Tribunal's jurisdiction: if the claim is presented outside the time limit, the Tribunal simply does not have jurisdiction to hear it (subject to the Tribunal's discretion, if applicable, to grant an extension of time).
31. An Employment Tribunal shall not consider a complaint... unless it is presented to the tribunal... before the end of the period of three months beginning with the date of payment of wages from which the deduction was made' (s23 (2) Employment Rights Act 1996 ('ERA')). Therefore, if a claim is presented out of time and cannot be brought within a statutory formula, if there is one, allowing for an extension of time, then the Tribunal must refuse to hear the case.

Calculation of time limits

32. A claim of unauthorised deductions from wages under S.23 ERA must be brought within three months of the date of payment of the wages from which

the deduction was made or, if there was a series of deductions, the last deduction in the series (s.23 (3) ERA 1996).

33. Where the Employment Tribunal is satisfied that it was not reasonably practicable for a complaint 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.

Effect of early conciliation

34. Since 6 May 2014, anyone wishing to present a claim to an Employment Tribunal must first contact ACAS and be offered early conciliation — S.18A Employment Tribunals Act 1996 ('ETA')
35. Special provisions have been introduced to extend the relevant time limit in light of ACAS early conciliation.
36. The effect of the 'stop the clock' mechanism is to exclude the early conciliation period from the time limit calculation for the purpose of limitation. In this case the notification to ACAS was out of time. There was accordingly no 'stop the clock' provision and the claim form being issued on 31 July 2025 was accordingly clearly out of time.

Extension of time

Reasonable practicability

37. It is in the interests of justice (given the time limit point was not raised at any point nor noted until after the oral Judgment was handed down after hearing evidence on 21 January 2026) to reconsider my oral decision and decide whether it was reasonably practicable for the claimant to have made the claim in time and if I decide it was not then whether it was made within a reasonable period. Unless an extension of time is granted the claimant's claim will be dismissed as the Tribunal has no jurisdiction to hear it.
38. In **Palmer and anor 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'.
39. In **Lowri Beck Services Ltd v Brophy 2019 EWCA Civ 2490, CA**, Lord Justice Underhill set out the essential points established in the case law:

- the test should be given a liberal interpretation in favour of the employee
- the statutory language is not to be taken as referring only to physical impracticability and for that reason might be paraphrased as whether it was 'reasonably feasible' for the employee to present his or her claim in time.
- if an employee misses the time limit because he or she is ignorant about the existence of a time limit or mistaken about when it expires in his or her case, the question is whether that ignorance or mistake is reasonable. If it is not, then it will have been reasonably practicable for the employee to bring the claim in time. However, it is important to note that, in assessing whether ignorance or mistake are reasonable, it is necessary to take into account any enquiries which the employee or his or her adviser should have made
- if the employee retains a skilled adviser, any unreasonable ignorance or mistake on the part of the adviser is attributed to the employee.
- the test of reasonable practicability is one of fact and not of law.

40. The claimant has advanced a number of reasons for it not being reasonably practicable to bring the claim in time, but his primary position appears to be that when he contacted ACAS he believed as there was ongoing nonpayment of wages his claim was in time. This is not supported by the claimant limiting his claim in his ET1 to the last deduction being 17 March 2025. Given his ET1 was not issued until 31 July 2025 if he understood there to be ongoing unlawful deductions it is not clear why there was no mention of these beyond 17 March 2025. He also states he was ignorant of time limits and had raised an internal grievance which was upheld and he was led to believe he would be reimbursed. It was once it became evident, they would not be doing this that he contacted ACAS.

Internal grievance

41. The EAT ruled in **Bodha v Hampshire Area Health Authority 1982 ICR 200, EAT**, that the existence of an impending internal appeal was not in itself sufficient to justify a finding that it was not reasonably practicable to present a complaint to a tribunal within the time limit, and this view was expressly approved by the Court of Appeal in **Palmer and anor v Southend-on-Sea Borough Council 1984 ICR 372, CA**.
42. There are situations, however, where the existence of an internal appeal can be a relevant factor for a tribunal to take into account when determining whether it was reasonably practicable for the employee to submit the claim within the time limit . (see **Webb v Carphone Warehouse ET Case No.1402557/1**).
43. In **John Lewis Partnership v Charman EAT 0079/11**, the EAT upheld an employment tribunal's decision to accept an out-of-time unfair dismissal claim where the claimant waited for the outcome of an internal appeal against his dismissal before deciding how to act. Mr Justice Underhill, then President of the EAT, rejected the employer's appeal against the judge's decision. Underhill P considered whether C's ignorance of the time limit was reasonable. In his view, it was obviously sensible for a party to await the outcome of an internal appeal before resorting to legal proceedings. Furthermore, he held that the instant case could be distinguished from **Bodha v Hampshire Area Health**

Authority (above) and **Palmer and anor v Southend-on-Sea Borough Council** (above), cases involving claimants with advisers who were, or should have been, aware of the relevant time limits but delayed claiming nonetheless. In those cases, the issue was whether the pursuit of an internal appeal in itself made it not reasonably practicable to present a claim to the employment tribunal, not whether it was reasonable for the claimant to be unaware of the time limits, which was the key question in the instant case.

44. I find that in this case the claimant was ignorant of time limits which applied to his case. He did not have legal representation and nor am I aware if he had sought any legal advice. He was clearly informed by the respondent in response to his grievance that the grievance was substantiated and they would be reimbursing unpaid income to him for the period 21 October 2024 to 25 March 2025. The outcome letter is dated 21 May 2025. The claimant waited until after the June payroll cycle before he says he realised he was still not going to be paid and then contacted ACAS on 2 July 2025. He would not have reasonably been aware of time limits in circumstances where the respondent had already agreed to repay him the unpaid wages.
45. Taking into consideration the factual circumstances, in particular the respondent informing him he would be repaid the wages due to him, I find on balance it was not reasonably practicable for him to have issued the claim given the respondent had seemingly agreed to repay his unpaid wages and therefore he was clearly reliant on their open admission and agreement in this regard. It follows he reasonably believed he would accordingly be repaid his wages for the relevant period and therefore did not consider that any formal legal steps accordingly needed to be taken at this time.
46. It was the actions of the employer in admitting they owed him wages and would be reimbursing him which caused the delay in him bringing the claim. I find the respondent misled the claimant by saying they would reimburse him (which is supported by the fact that even by the time of the final hearing, notwithstanding the grievance outcome, they had still failed to pay his wages which they accepted in May 2025 they would reimburse). In light of that grievance outcome, it was not reasonably practicable for the claimant to have presented his claim in time. He reasonably believed the respondent had agreed to repay his wages to him.
47. Given the employer upheld his grievance it was reasonable for the claimant not to have taken steps at this time to find out about time limits or the enforcement of any of his rights. Even if he had knowledge of some rights to pursue a claim for nonpayment of wages his conduct in relation to non enforcement of those rights was similarly reasonable given he was clearly led to believe the unpaid wages would be reimbursed to him.

Presentation within a reasonable further period

48. The relationship between the first limb of S.111(2)(b) ERA — i.e. whether it was not reasonably practicable to present the claim within the time limit — and the

second limb of that subsection — i.e. whether, after the end of the limitation period, the claim was presented within a further reasonable period — has been considered by the courts and tribunals on a number of occasions. The test for what is ‘reasonably practicable’ and what is ‘reasonable’ is different.

49. The claimant will have become aware by the payroll on or around 10 June 2025 that despite the grievance outcome the respondent had not repaid the relevant wages.
50. The claimant also had a period of health concerns around the same time for which he was referred to hospital in or around 26 June 2025.
51. He contacted ACAS on 2 July 2025 some 3 weeks after the June payroll when he will have been on notice that the wages he was led to believe were to be repaid had not been. At this time as the wages were not paid in the June payroll, he believed the relevant period included up to the time of the June payroll.
52. I take note he did not obtain legal advice and also had a period of serious health concerns which will have consumed his time, and I accept this caused him considerable stress and anxiety.
53. I accept these matters will have affected his ability to take immediate legal action. I have in regard the strong public interest in claims being brought promptly. However looking at the period between the expiry of the time limit which will have been 16 June 2025 based on the last deduction being on 17 March 2025 and considering objectively the intervening period of ill health and his fast track referral to the hospital, coupled with his belief that his conciliation with ACAS had been brought in time (because the wages had still been unpaid) I find the claim was subsequently brought within a reasonable period of time. The delay was a period of almost 7 weeks between when limitation did expire (based on the dates of deductions given in the ET1) and when the claim form was issued. I have in mind that he reasonably believed that a) the respondent had agreed to repay him the unpaid wages in their letter of 21 May 2025 b) he reasonably believed that he would be paid the wages in the following month’s payroll being June 2025 (which they were not) and c) his reasonable belief that because the payment was still not made in the June 2025 payroll the conciliation with ACAS on 2 July 2025 had been started in time.
54. I therefore find that the period between the expiry of the time limit and presentation of the claim was reasonable and an extension of time is granted in the circumstances for the claimant to bring his claim for unlawful deduction from wages.
55. The original decision handed down orally on 21 January 2026 accordingly remains effective.
56. The claimant’s complaint of unlawful deduction from wages is well founded.
57. Whilst the claimant refers to the respondent having better payroll information to be able to calculate his losses, he did not prepare his case nor give evidence

about pay rises which would have impacted the loss calculation when he had the opportunity to present his evidence at the final hearing. The calculation of losses was based on his own unchallenged evidence about how he had arrived at the claimed loss. It is not in the interests of justice to go behind that finding nor is it proportionate and/or in the interests of justice to seek to adduce new evidence after adjudication of an issue where the claimant had the opportunity to address this in his evidence at the final hearing. These are matters which could have been raised by him in his evidence at the final hearing. Accordingly, the original sums claimed and ordered to be paid in the oral judgment delivered stand.

Employment Judge N Wilson
Date: 6 May 2026

Sent to the parties on:
Date: 21 May 2026