



EMPLOYMENT TRIBUNALS

Claimant: Mr Simon Lane

Respondent: Ministry of Defence

Heard at: Bristol

On: 6th May 2026

Before: Employment Judge Lambert

Appearances:

For the Claimant: in person

For the Respondent: Mrs Hornblower, counsel

JUDGMENT was given orally at the hearing dismissing the claim of unfair dismissal for being raised outside of the relevant time limit under Section 111(2) of the Employment Rights Act 1996 (“the **ERA**”).

The Judgment was sent to the parties on 20th May 2026. The Claimant requested full written reasons on 1st June 2026.

In accordance with Rule 60 of the Employment Tribunal Procedure Rules, the following written full reasons are therefore provided:

FULL REASONS

1. This matter came before Employment Judge Self on 23rd September 2025 at a Preliminary Hearing. EJ Self made several case management orders including listing this matter for a public Preliminary Hearing on 6th and 7th May 2026 to determine several issues.
2. One of the issues listed to be determined before me was whether the unfair dismissal claim had been brought within the statutory time limit and, if not,

whether it was reasonably practicable for the Claimant to have done so. If it was not, whether the Claim was brought within a reasonable time thereafter.

3. The parties had agreed a trial bundle for use at the Preliminary Hearing. The Claimant represented himself and gave live evidence at the hearing. He was cross-examined by the Respondent's Counsel, Mrs Hornblower.
4. In fairness to the parties, there was very little in dispute as to the facts of the case pertaining to the time limit point. The Claimant accepted that the following dates were correct:
 - 4.1 the effective date of termination was 30th July 2024.
 - 4.2 he contacted ACAS on 11th October 2024 to commence early conciliation.
 - 4.3 ACAS issued the early conciliation certificate on 22nd November 2024.
 - 4.4 he presented his Claim Form on 23rd December 2024.
5. The Claimant also confirmed that he was aware:
 - 5.1 that he had to contact ACAS to commence early conciliation.
 - 5.2 that he had to present his claim within one month of the date the ACAS certificate was issued.
 - 5.3 of the 3 month time limit prior to the date for presenting the Claim Form. He was taken to an email that he had sent to PCS union on 18th December 2024 (page 88 of the agreed bundle) confirming this.
 - 5.4 as at 18th December 2024, the limitation date for presenting his Claim Form was 22nd December 2024.
6. The Claimant agreed that he had presented the Claim Form outside of the relevant time limit on 23rd December 2024 and that it had been presented late.
7. In evidence the Claimant put forward three reasons for failing to present his claim in time. These were:
 - 7.1 that he was seeking advice from PCS and he was waiting for a response;
 - 7.2 he had spoken with staff at the Employment Tribunal and was told

that a delay of a few days would not be an issue; and

- 7.3 he was a fact orientated person who suffered with anxiety. This impeded his ability to present his Claim Form on time.

8. Focusing on these points in turn:

Waiting for PCS to response

9. On 18th December 2024, the Claimant sent an email to an advisor at PCS union which was included at page 88 of the bundle and stated:

I am conscious that there is an impending deadline to meet the legal guidelines. I wondered if you had been able to review my case? I am keen to make sure that I submit my claim prior to 22 December (Sunday), but I would really appreciate some advice as to what I should be doing and when?

10. When put to him in cross-examination, the Claimant accepted that he was aware of the deadline for presenting his claim but wanted a review from PCS before doing so. It was clear from other documents within the bundle (pages 88 – 94) that the Claimant was in contact with PCS from as early as 25th October 2024.

11. It appears that PCS did not respond to his email. The Claimant sent a follow up email to PCS on 19th December 2024 (p.92) stating:

I think I have a bit of a pressing timeline for submitting my ET1 (22 Dec 24), but obviously wanted to talk with [REDACTED NAME] first if at all possible.

12. Clearly the Claimant was aware of the deadline.
13. The Claimant received a response from PCS on 20th December 2024 confirming that a legal case had been opened and it had sent an email to the Claimant's case worker.
14. From this evidence, I concluded that the Claimant was well aware of the deadline. He had attempted to contact PCS but from its response on 20th December 2024, it was apparent to the Claimant, or it reasonably should have been, that PCS was not going to respond in time for him to be able to discuss matters and then present his Claim Form in time. He would be required to take action himself.
15. It was agreed that he presented the Claim Form on 23rd December 2024, several hours after the deadline had passed.

Told by Employment Tribunal staff that a few days late wouldn't be an issue

16. The Claimant's evidence on this point consisted of oral evidence and reliance upon his mobile phone records for December 2024 (p. 97). These appeared to show that the Claimant had attempted to contact PCS legal and PCS membership support on Thursday 19th December, Friday 20th December as well as contacting Bristol HMCTS on Friday 20th December 2024 and again on Monday 23rd December 2024. This latter date was after the expiry of the deadline for presentation of the Claimant's claim.
17. The Claimant was unable to confirm whom he spoke with at HMCTS or the nature of the information provided. He accepted in cross examination that he could not provide any independent evidence confirming the nature of this discussion. However, the Claimant was adamant that he was informed that a few days' delay would not be an issue for his claim.
18. HMCTS documentation makes it clear that HMCTS staff do not provide employment law advice. I am aware that HMCTS staff often state this in response to parties and they receive training on this specific point. It is not their role to provide any advice to the parties. I would need compelling evidence, probably in the form of a transcript or email confirmation from the HMCTS staff, to be satisfied that, despite their training, they would provide fairly cavalier advice that *a delay of a few days would not be an issue*. Most staff would be aware that time limits are strictly enforced within the Tribunal system.
19. Indeed, if the Claimant's evidence was correct, it would seem logical that he would have waited a few days to speak with PCS before presenting his claim, safe in the knowledge that he was complying with the advice he had received. However, he did not do this. He presented his Claim Form in the early hours of 23rd December 2024. This tends to point against his own evidence on this point.
20. Scrutinising the Claimant's evidence on this point, it is simply his oral evidence and his phone records showing he attempted to contact HMCTS on Friday 19th December 2024. I find this evidence unconvincing and reject it.

Suffering with anxiety at this time

21. In response to a line of questioning from Mrs Hornblower, the Claimant explained that it was not reasonably practicable for him to present his Claim Form in time because he was suffering with anxiety. He relied upon a document within the trial bundle entitled "Disability Health Tracker" (p.87) which he had prepared using three different scales. These were "Impact of Psychological Disorders/Daily Function Impairment Tracker; Depression Tracker; and Anxiety Disorder Tracker. This document took the form of a

graph. There was no specific medical evidence supporting this graph, but the Claimant relied upon this document as evidence that he was suffering with anxiety at this time and was not able to present his Claim Form in time.

22. The difficulty with the Claimant's evidence is that at the date of 17th December 2024, all of the measures were decreasing. Bearing in mind that he was able to send the emails to PCS on 18th December 2024 and 19th December 2024, this evidence seemed to me to suggest that if the Claimant had issues, these were decreasing at the point when the Claim Form should have been presented. He was clearly capable of preparing a detailed Claim Form (some 13 pages) and I do not accept that he was so unwell as to be unable to present his Claim Form at 11:59pm on 22nd December 2024 but was fit enough to do so some 4 hours later, on 23rd December 2024.
23. Again, I find this evidence unconvincing.

The Law

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

...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.

25. The Court of Appeal in **Marks & Spencer plc v Williams-Ryan [2005] EWCA Civ 470** and later in **Lowri Beck Services Ltd v Brophy [2019] EWCA 2490 CA** set out several legal principles distilled from a review of case law:

- 25.1 section 111(2) of the ERA 1996 should be given a liberal interpretation in favour of the employee.
- 25.2 regard should be had to what, if anything, the employee knew about the right to complain to a tribunal and of the time limit for doing so.
- 25.3 regard should be had to what knowledge the employee should have had, had they acted reasonably in the circumstances. Knowledge of the right to make a claim does not, as a matter of law, mean that ignorance of the time limits will never be reasonable. It merely makes it more difficult for the employee to prove that their ignorance was

reasonable.

- 25.4 the onus of proving that presentation in time was not reasonably practicable rests on the Claimant: **Porter v Bandridge Ltd 1978 ICR 943, CA.**
- 25.5 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.

Conclusion

26. From the evidence before me, I was satisfied that the Claimant was aware of the deadline for presenting his Claim Form, as evidenced in his emails to PCS on 18th and 19th December 2024. He had also taken steps to contact ACAS and liaise with the PCS so was aware of where he could obtain advice. The evidence showed that the Claimant was using emails and had access to the internet.
27. The Claimant also knew, or ought reasonably to have known from the PCS email of 20th December 2024, that he would not have the opportunity to speak with his case worker prior to 22nd December 2024, the date he knew he had to present his case.
28. It is for the Claimant to establish the case that it was not reasonably practicable for him to present the Claim Form on or before the deadline. From the evidence available to me, I concluded that it was reasonably practicable for the Claimant to present his Claim Form within the relevant time limit. He did not do so. Therefore his claim of unfair dismissal is dismissed for being raised out of time.
29. For completeness, I was also asked to determine whether the Claimant's claims of discrimination, presented on the same Claim Form and subject to the same facts, were presented out of time. This is subject to a different legal test under Section 123 of the Equality Act 2010 on the basis of just and equitable. On the facts available to me, I considered it was just and equitable for the Claimant to present those claims outside the three month time limit and those claims can continue and are not affected by this judgment.

Approved by:
Employment Judge Lambert
16th June 2026

SENT TO THE PARTIES ON
29 June 2026

Notes

All judgments (apart from judgments under Rule 51) and any written full reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/