



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 8002000/2025

Held in Aberdeen via Cloud Video Platform (CVP) on 9 June 2026

Employment Judge Hendry

Dr E Idehen

**Claimant
Represented by:
Mr B Kadirgolum -
Solicitor**

K -A Walker

**Respondent
Represented by:
Ms Nabi -
Solicitor**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Tribunal is that the claims being out of time and the Tribunal not being persuaded to grant an extension in terms of Section 123 of the Equality Act, the claims are dismissed for want of jurisdiction.

Reasons

1. The claimant made an application to the employment tribunal seeking findings that she had been discriminated against on the grounds of her age and race. The claims were opposed.
2. The claimant had worked as a Lecturer at Robert Gordon's University and the respondent was a colleague on the same grade as her. The claimant's employment ended through redundancy.
3. The case proceeded to a case management hearing on 27 January 2026. The claimant accepted that the claims were out of time. The judge fixed a hearing on time bar for 9 June 2026. The claimant's representative was ordered to provide further specification of the claim and reasons as to why it was said to be just and equitable for the claim to proceed despite being out of time. The claimant's representative provided what was meant to be further specification,

but which appeared essentially to be the same summary table of incidents prepared earlier by the claimant and attached to her ET1.

4. The respondents by letter dated 13 March 2026 intimated that they continued to seek dismissal of the claims as they were time barred. They observed that they had neither received reasons why it was just an equitable for the claims to proceed nor had they received any medical information corroborating the claimant's position that she had been suffering from a mental health condition preventing her from lodging the claims in time.
5. **It was accepted that the last act of discrimination was said to have occurred was 6 March 2025. The significant dates are that the claimant remained employed until 30 June 2025. ACAS was contacted by the claimant on 4 August 2025. An Employment Tribunal application was made on 15 August.** The primary time limit had expired before the claimant contacted ACAS.
6. During the latter period of her employment, the claimant had raised a grievance against the respondent and engaged in internal grievance process is. Also at this time the claimant engaged with a redundancy process that was happening. It was contended that given the claimant was able to engage in these internal process there was no basis to suggest she was not well enough to submit an employment tribunal claim within the required timescale.

Hearing

7. At the start of the hearing, Ms Nabi briefly outlined her client's position that the claims were time barred. She pointed out that the claimant had made claims for race and age discrimination. She also made an application for strike out in terms of rule 38 (1)(a) of the Employment Tribunal Procedure Rules 2024 that the claims had “ *no reasonable prospects of success*” . She submitted that even take at their highest the pleadings do not establish a *prima facie* case of discrimination. The claimant, she said, referred to what she described as rude emails and a poor working relationship with the respondent. The context according to the respondent was of the claimant missing deadlines, exhibiting poor behaviour including at meetings and repeatedly calling and emailing the respondent out of working hours. The respondent as part of her duties as an assessor (of student results) required the claimant to perform her role to reasonable standard as this had an impact on the way the respondent could carry out her activities. The result was that there was a poor working relationship. There were no pleadings linking any of this to the claimant' race or age.
8. In addition, the claims are considerably out of time. The claimant did not contact ACAS until almost five months after the last alleged incident of

discrimination. Ms Nabi made reference to the case of ***Chandhok V Tirkey*** and the importance of the ET1 setting out the claims that were being made. In her view there was no basis pled for the claims. If the tribunal was not minded to strike the applications out she sought a Deposit Order in terms of rule 40.

9. The solicitor then took the tribunal through the months before the claimant's contract was terminated on the grounds of redundancy. In this period the documents disclosed the claimant applied for three roles. In relation to one role she was told there was no match. In relation to the two other roles she was interviewed. She fully participated in the redundancy process. One interview took place on 19 May, the other on 21 May. She referred to documents 10,11,12 and 13 in the Inventory. The claimant was actively involved and participating in this redundancy process. She raised queries about the alternative available roles. This process ended with her not being matched to any roles. She met the Dean of the University on 9 June to discuss matters and on 19 June met a solicitor to discuss the basis of a Settlement Agreement that was offered for consensual termination of employment.
10. Ms Nabi made reference to other documents 14-17 and to the timeline at page 118. The claimant had the assistance of a TU representative during consultation. Correspondence showed that she engaged with HR and at one point she indicated she was going to instruct a solicitor to represent her. The claimant had previously been involved in December of the previous year in raising a grievance. She was an able and resourceful person who could have easily ascertained what her rights were and the appropriate time limits for proceedings. It was in her submission not just and equitable for the claims to proceed late as there was no good reason that they were late in the first instance. The claims were in addition very weak. The incidents were not linked to protected characteristics. The events pled go back to 2023 and there would be an impact on the cogency of the evidence.
11. The claimant was not present at the start of the hearing. Just following Ms Nabi concluding her submissions, she logged on. My understanding had been that she was not going to give evidence. However, I allowed a short break to allow the solicitor to take instructions from her particularly as to whether she was to give evidence about her health conditions and why it was just and equitable to allow the claims late.
12. On resuming, Mr Kadirgolam, indicated that the claimant wanted to give evidence but that she had an important appointment about her passport which she could not miss and would have to leave by 12. She had been unaware that she was giving evidence.

13. Dr Idehen then gave evidence about her difficulties with the respondent. She said that Dr Walker joined her team in October 2023. She would complain that she could not understand her. They had a dispute over the use of slides. She was not her superior and could not tell her what to do. She accepted that she as an assessor she need to liaise with her about student results. She explained that Lectures have non official roles. The respondent coordinated lectures and student assessment She was at pains to point out this did not involve assessing lecturers. There was a grievance but she did not get any feedback. They tried mediation but could not come to an agreement. There had been no concerns about the claimant's performance until Dr Walker joined. Dr Idehen left the University in June though redundancy. She explained that her mental health was impacted during this period and earlier.. It was very stressful. She had been referred to Occupational Health. She had two meetings about a year apart.
14. Dr Idehen had noticed deterioration in mental health. She was signed off work for six weeks but could not recall the dates. She explained that the total period was six weeks. She got a first Fit Note then a second. She went back to work in late May. She confirmed that she had engaged in a redundancy process but explained that she just had to follow the process and attend meetings. These were all part of a planned process and she did not need to do much. The claimant accepted that she had been accompanied by TU representative. The claimant accepted that she had engaged a solicitor. This was part of the Settlement Agreement process to allow her to receive enhanced redundancy. After discussing what had occurred at the University with him he told her not to sign the Agreement. She therefore decided to not proceed. The claimant felt strongly that she had been treated unfairly. The claimant's position was that she did not submit proceedings earlier due to her mental health at the time. She was only able to concentrate on this once she "got herself back". She was asked if she had asked the lawyer about raising race or age discrimination proceedings and about time limits but she responded that it was not his duty to advise her about these things only the Settlement Agreement. Only after she felt better could she do something about her employment issues, She had also felt that her dismissal had also been unfair so raised a claim against employer on 29 September.
15. Finally the claimant said that she had spoken to ACAS and to the CAB after the solicitor told her that given the difficulties she had told him about she should not sign the Agreement. He had told her that if she did, she would be waiving her rights to make claims. The claimant submitted the ET1 application herself

Witness

16. The claimant was an honest witness who believed that she had been wronged. Determining her credibility and reliability was difficult. Unfortunately she was unable to stay and be cross examined. The claimant's lawyer was asked if he was seeking an adjournment but intimated that the claimant was keen to get proceedings finished. Ms Nabi did not insist on an adjournment. She said that she would rely on her submissions as the evidence did not materially assist the claimant. I came to the view that the claimant was not a particularly credible witness in relation to her reasons for not looking into her rights even before the redundancy occurred given her trenchant views about her colleague's alleged behaviour which had persisted for some time.

Submissions

17. Mr Kadirgolum accepted that the claim was out of time. His position was that the claimant had been unwell suffering from stress during this important period. His position was that although the discrimination began in 2023 it continued until termination of her service. If the claim was not allowed to proceed the claimant would be deprived of her rights. She was not a lawyer and did not know about time limits. She was prompted to take action only after she had met Mr Paterson. He did not tell her about time limits but it was clear that he could not advise her to sign away her rights. It was just and equitable in the whole circumstances to allow the claims late.
18. In response Ms Nabi referred to her written application. It was apparent that the claimant was not so unwell as to be unable to participate in the redundancy process which involved a number of steps and in seeking alternative work. There was no medical reason she could not research her rights and raise proceedings. She was Lecturer and academic. There was no clear explanation for the delays The claims were weak and the Tribunal should take this into account. She submitted that there were issues regarding the cogency of the evidence as events went back to 2023. She referred the Tribunal to the case of ***Kumari v Greater Manchester NHS [2022] EAT*** as the strength of the claim is a factor that can be considered. The ET1 was devoid of detail and only spoke to the poor working relationship with the respondent. There was insufficient plea to demonstrate a *prima facie* case of discrimination.

Discussion and Decision

19. Section 123 of the Equality Act 2010 is in these terms:

123 Time limits

- (1) *Subject to section 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.*
20. The employment tribunal has a wide discretion to extend the three month time limit in circumstances where it considers that it would be “just and equitable” to do so (section 123(1)(b) Equality Act 2010). There is no presumption that a litigant who has missed the time limit, and relies on the just and equitable discretion, will be given such an extension. In deciding whether it would be just and equitable to extend the time limit the tribunal has to take the whole circumstances including the reasons for the delay, the actions of the parties and any prejudice which would be caused to the parties by the tribunal’s decision about extending time. The time limit runs from the last act of there is a series of discriminatory acts running over a period of time.
21. The case of **Robertson v Bexley Community Centre** [2003] IRLR 434 states: “When Tribunals consider their discretion to consider a claim out of time on just and equitable grounds there is no presumption that they should do so unless they can justify a failure to exercise the discretion. Quite the reverse. A tribunal cannot hear a complaint unless the applicant convinces it that it is just and equitable to extend time. So, the exercise of the discretion is the exception rather than the rule”.
22. Time limits in Employment Tribunals are generally strictly enforced (**Robinson v The Post Office** [2000] IRLR 804).
23. The discretion to extend time is nevertheless broad (**DPP v Mills** 1998 IRLR 494), and the tribunal’s power to extend time on the basis of what is just and equitable entitles the tribunal to take into account anything which it judges to be relevant (**Hutchison v Westward Television Ltd** 1977 IRLR 69).
24. **Kumari v Greater Manchester Mental Health NHS Foundation Trust** [2022] EAT 132 is authority for the proposition that Employment Tribunals can weigh the merits of a discrimination claim when deciding whether to extend time. This is provided that it is done so by reference to identifiable factors apparent at the hearing and taking into account that it will not have heard all the evidence.
25. It is up to the claimant to convince the Tribunal that it is just and equitable to extend the time limit. The claimant is intelligent and able. She is an academic. She accused the respondent of racism in the course of a mediation process

in December 2023. That interpretation of the respondent's actions must have been in her mind then. That she believed that she had been subjected to discriminatory behaviour was apparent from her evidence.

26. The claimant's apparent ignorance of time limits is not reasonable. Her focus in evidence was on the difficulties she had experienced during the last few months of her employment but the allegations of race discrimination go back to December of the previous year or earlier.
27. There was very little medical support for the suggestion that the claimant was so unwell as to prevent her looking into her rights and then raising proceedings. She had after all gone through a grievance and mediation process about alleged racism. In addition she could have raised these matters with her trade union or instructed a solicitor. I found her explanation that the solicitor she spoke to could not advise her except about the Settlement Agreement difficult to accept. It seems to me that giving advice about a Settlement Agreement that would necessarily involve finding out if there were any possible outstanding claims such as for discrimination that would be waived by acceptance of the agreement. In any event there appeared to be clear opportunities for her to ask about her rights.
28. I also considered the strength of the claims being made. I take full account of the fact that the claimant is not legally qualified but the absence of any clear reference to race or age discrimination is noteworthy. In her ET1 she wrote as follows:

"...she has persistently questioned my competence- specifically targeting my teaching methods, speech, and language. Her behaviour escalated to the extent of deleting my prepared lecture slides and teaching materials from the shared staff areas, replacing them with her own without my consent, sending her slides to the students and then leaving for annual leave. She also monitored my posture and contributions during team meetings."
29. The claimant provided a table of incidents. She did not say which incidents were age discrimination and which were race discrimination. The incidents appear to relate to a poor working relationship but do not say why the Tribunal should infer that discrimination of either type is at issue. The closest the claimant comes is perhaps mentioning dissatisfaction with her speech and language but she does not explain why she believes that her race or age are at issue.
30. The Supreme Court in the case of **Royal Mail Ltd v Efofi** UKSC/2019 reviewed the proper interpretation of the burden of proof in discrimination cases essentially reaffirming earlier jurisprudence and overturning a newer

interpretation of the meaning of the burden of proof suggested by the Court of Appeal.

31. It is common for claimants to make reference to a series of allegations of unreasonable conduct. It is, however, well established that conduct which is unreasonable or unfair is insufficient. This was the conclusion of the Employment Appeal Tribunal in **Bahl v Law Society** as approved by the Court of Appeal. This analysis was further repeated by the Employment Appeal Tribunal in **Eagle Place Services Ltd v Rudd**. As noted earlier the claimant does not plead why this behaviour related to either race or her age. If I had granted the application to allow the claims late I would have considered striking the claims out on this basis.
32. In the whole circumstances that apply here I do not regard the application for an extension to be well founded. It is refused and the claims dismissed for want of jurisdiction because they are made out of time.

Date sent to parties

16 July 2026