**Case Number: 6006571/2026**

# EMPLOYMENT TRIBUNALS

**Claimant:** Mr. Atesli

**Respondent:** East Sussex Healthcare NHS Trust

**Heard at:** London South, by video **On:** 15 September 2026

**Before:** Employment Judge Cawthray

**Representation**
Claimant: In person, not legally qualified
Respondent: Ms. Shah, Counsel

# JUDGMENT

1. The claim was not presented within the applicable time limit. It was reasonably practicable to do so. The claim is therefore dismissed.

# FULL REASONS

**JUDGMENT** with full reasons was given at the hearing on **15 September 2026** written full reasons were requested at the hearing in accordance with Rule 60 of the Employment Tribunal Procedure Rules. The following written full reasons are therefore provided:

**Issues**

1. The hearing today had been listed for a one day final hearing to consider the Claimant's complaint of unlawful deduction from wages. On 4 June 2026 the Respondent made an application for the final hearing to be converted to a public preliminary hearing to consider an application that the claim be struck out on the basis that it was out of time and had no reasonable prospect of success. The Claimant had responded to the application in writing. The application had not dealt with by the Tribunal. I discussed the potential ways forward and determined that the most pragmatic way forward was to hear evidence and submissions in relation to whether or not the claim was in time first.

2. The Claimant accepted that he had not presented his claim in the primary time limit, therefore the issues I had to determine in relation to time limit are:

3. Was it reasonably practicable for the claim to be made to the Tribunal within the time limit?

4. If it was not reasonably practicable for the claim to be made within the time limit, was it made within a reasonable period?

5. The Claimant had provided a witness statement, and a response document that dealt with time limits. The Claimant affirmed his evidence and was cross examined. Both parties gave submissions.

**Facts**

6. I made findings of fact only as far as necessary to determine the issues.

7. Early conciliation took place between 17 December 2025 and 3 February 2026.

8. The claim form was presented on 20 February 2026. The claim is one of unlawful deductions from wages for sums the Claiamnt says are owed to him for locum shifts worked between January and April 2024. The latest sum sought was from a shift worked on 5 April 2024.

9. The Claimant is Consultant in the Respondent's emergency department The Claimant's ET1 referred to him starting employment on 1 August 2013, but throughout this hearing the Claimant referred to working for the Respondent for 25 years. The Claimant remains in employment. The Claimant had retired and returned in 2022.

10. The Claimant holds an employment contract with the Respondent in respect of his substantive Consultant role. He is paid a salary for this role.

11. The Claimant is also, outside of and in addition to his substantive role, engaged as a bank worker under the "Terms and Conditions for Members of the Temporary Workforce Services Bank Register" ("the TWS Contract"). This allows the Claimant to undertake additional work.

12. The Claimant was asked to undertake locum work on various occasions between 2022 and 2024. The Claimant did undertake locum work, which fell under the TWS contract. The need for locum work arose due to patient safety needs and absence cover.

13. The Claimant was aware that he should submit a request for payment of locum work within three months, as set out in clause 5 of the TWS contract.

14. The Claimant did not make a claim for the locum work undertaken between 2022 and 5 April 2024 within the prescribed three month limit in clause 5 of the TWS.

15. The Claimant did not consider any delay in submitting a request would prevent him from being paid. He was of the view that as he had worked for the Trust for 25 years, had helped the trust by undertaking additional work and that he felt the Trust had a discretion to pay that he would be paid.

16. On returning from retirement in 2022 the Claimant had various concerns. He was concerned about potentially needing to pay back large sums of money following overpayment and tax matters. The Claimant had concerns relating to his job plan, regarding his substantive role, from 2023. He was in discussion with his managers about these matters.

17. The Claimant experienced some stress in his personal life with bereavements, but no detail about this was provided.

18. The Claimant chose not to make any internal claim for payment of his locum work until his job plan regarding his substantive role was finalised. The job plan was finalised in April 2025.

19. The Claimant then took steps to seek payment for the locum shifts worked, initially via emails with management in mid-April 2025. The matter progressed and the Claimant lodged a grievance and then an appeal. The grievance appeal process ended on 16 December 2025. The Claimant had, in view of the long relationship, considered that he was taking the correct steps by pursuing the matter internally.

20. The following day, 17 December 2025 the Claimant contacted ACAS.

**Law**

21. The time for presenting a claim is extended for the duration of ACAS Early Conciliation.

22. However, where the ACAS EC process was started after the primary time limit had already expired the ACAS " freezing" of the time limits does not operate to assist a Claimant (Pearce v Bank of America EAT 0067/19).

23. It is well established that time limits should be adhered to strictly (relevant case being *Robertson v Bexley Community Centre 2003 EWCA CIV 576.)*

24. The test for extending time under section 23 of the Employment Rights Act 1996 has two limbs to it, both of which must be satisfied before a Tribunal will extend time.

25. Firstly, the Claimant must satisfy the Tribunal that it was not reasonably practicable for the complaint to be presented before the end of the 3 month primary time limit.

26. If the Claimant clears that first hurdle, he must also show that the time which elapsed after the expiry of the 3 month time limit before the claim was in fact presented was itself a 'reasonable' period.

27. The burden of proof is upon the Claimant to establish that it was not reasonably practicable for his to submit his claim within the extended time limit. As set out in *Porter v Bandridge Ltd 1978 ICR 943 CA "[there is] a duty upon him to show precisely why it was that he did not present his complaint".*

28. What is reasonably practicable is a question of fact - "*The test is empirical and involves no legal concept"* (Wall's Meat Co Ltd v Khan 1979 ICR 52, CA) Shaw LJ. 16. It is not a question of reasonableness but whether it was impracticable to present a claim in time *(Trusthouse Forte (UK) Ltd v Halstead EAT 213/86, EAT*).

29. The principles derived from case law in relation to knowledge and ignorance of time limits are well established.

30. It is not reasonably practicable for an employee to present a claim within the primary time limit if he was, reasonably, in ignorance of that time limit.

31. However, if a Claimant knows of the facts giving rise to the claim and ought reasonably to know that they had the right to bring a claim, a Tribunal is likely not to extend time.

32. Even if the Tribunal is satisfied that it was not reasonably practicable for the complaint to be presented within the 3 month time limit, if the period of time which elapsed after the expiry of the time limit was longer than was 'reasonable' in the circumstances of the case, no extension of time will be granted.

33. In considering whether a claim was submitted within a further reasonable time means a Tribunal must consider all the circumstances of the particular case, including what the claimant did; what he or she knew, or reasonably ought to have known, about time limits; and why it was that the further delay occurred.

***23 Complaints to employment tribunals.***

*(1) A worker may present a complaint to an employment tribunal—*

*(a) that his employer has made a deduction from his wages in contravention of section 13 (including a deduction made in contravention of that section as it applies by virtue of section 18(2)),*

*(b) that his employer has received from him a payment in contravention of section 15 (including a payment received in contravention of that section as it applies by virtue of section 20(1)),*

*(c) that his employer has recovered from his wages by means of one or more deductions falling within section 18(1) an amount or aggregate amount exceeding the limit applying to the deduction or deductions under that provision, or*

*(d) that his employer has received from him in pursuance of one or more demands for payment made (in accordance with section 20) on a particular pay day, a payment or payments of an amount or aggregate amount exceeding the limit applying to the demand or demands under section 21(1).*

*(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.*

*(3) Where a complaint is brought under this section in respect of—*

*(a) a series of deductions or payments, or*

*(b) a number of payments falling within subsection (1)(d) and made in pursuance of demands for payment subject to the same limit under section 21(1) but received by the employer on different dates,*

*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.*

*(3A)Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (2).*

*(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.*

*(4A) An employment tribunal is not (despite subsections (3) and (4)) to consider so much of a complaint brought under this section as relates to a deduction where the date of payment of the wages from which the deduction was made was before the period of two years ending with the date of presentation of the complaint.*

*(4B) Subsection (4A) does not apply so far as a complaint relates to a deduction from wages that are of a kind mentioned in section 27(1)(b) to (j).*

*(5) No complaint shall be presented under this section in respect of any deduction made in contravention of section 86 of the **M1** Trade Union and Labour Relations (Consolidation) Act 1992 (deduction of political fund contribution where certificate of exemption or objection has been given).*

**Conclusion**

34. I explained clearly to the parties throughout the hearing that been clear that all that I am determining at this stage is whether or not the unlawful deduction from wages claim had been brought in time. I have not considered the merits of whether or not the Claimant is owed any sums.

35. The law on time limits, as set out above, is strict and clear in this area. I must apply the law as it is.

36. The Claimant agreed that his claims had been presented outside the time limit and therefore that was not an issue which I needed to determine. It is clear the claim was submitted well past the primary three-month deadline.

37. The first issue to be determined therefore was whether it was reasonably practicable for the Claimant to have submitted his claims within the relevant 3-month time limit. If I were to decide that it was not reasonably practicable then I would have to consider the next stage of the test included in the statutory provisions referred to above relating to time limits.

38. In this case, the ordinary deadline to submit a claim was 24 October 2024. The last shift worked was 5 April 2024. A request for payment should have been made by 5 July 2024 and had that request been made the payment would have been due in the pay run of 24 July 2024. The claim was not submitted until February 2026, with ACAS early conciliation not being started until 17 December 2025. The contact with ACAS was some 13 months past the ordinary time limit and the presentation of the claim to the Tribunal some 16 or so months. The Claiamnt does not, in the circumstances, have the benefit of any EC extension.

39. As I have set out in the findings of fact, the Claimant's focus until April 2025 was in regard to his substantive post and his job plan.

40. The Claimant did not seek payment for his locum work until April 2025, and then internal discussions and processes were underway until 16 December 2025.

41. I concluded that the fact that the Claimant chose not to submit a request for payment whilst focusing on his job plan until April 2025 and then engaged in internal discussions did not mean that it was not reasonably practicable for the Claimant to submit his claim in time.

42. It is noted the Claimant had concerns about his job plan and potential repayments, and that he experienced some stress and difficulties in his personal life, but on the evidence that I was directed to I do not consider these to be matters that meant it was not reasonably practicable to submit his claim to the Tribunal in time.

43. Further, I do not consider the fact that the Claimant engaged internal discussions and processes from April 2025 meant that there was a barrier to presenting a claim with the Employment Tribunal, these processes had no bearing on the legal basis of the claims, or the Claimant's ability to bring claims in time.

44. I considered that the Claimant was an intelligent and educated person and that he was under an obligation to investigate his legal rights and obligations in respect of the time limits which apply to claims in an Employment Tribunal. The Claimant had reasonable opportunity to

research his legal rights. There was no evidence of any matter that prevented the Claimant from doing so.

45. I understand that the Claimant reasonably believed he would be paid and that he had chosen to focus on resolving matters with his substantive post. However, the law that I must apply is strict and clear, and there was nothing to demonstrate that the Claimant was not reasonably able to ascertain information on the ability to bring a claim and the associated time limits in either the primary period, up to 24 October 2024, or soon after.

46. Ignorance of the right to bring a claim, or of the time limit or procedure for making a claim, does not in itself satisfy the reasonable practicability test. I must be satisfied that the Claimant's ignorance of the relevant time limit was reasonable. In view of the Claimant's position, being an educated person and there being no barrier to his capacity to action in the ordinary time limit period I concluded that it was reasonably practicable for the Claimant to bring his claim in time.

47. My conclusion is therefore that the claim was not submitted within the 3-month time limit and that it had been reasonably practicable for the Claimant to have complied with time limit and submit his claim form within the requisite period.

48. As I have reached this decision, it was not necessary for me to consider the next stage of the test, namely whether it was presented in a further reasonable period, but as an observation, the claim was not submitted until 20 February 2026, some 16 months after the expiration of the ordinary time limit on 24 October 2024. I do not consider such a period would have been a further reasonable period.

49. As I have reached this conclusion, this ends the claim. The claim is out of time, and the Tribunal does not have jurisdiction to hear the claim. The claim is dismissed.

Approved by:
Employment Judge Cawthray
Date: 15 September 2026

Sent to the parties on:
Date: 18 September 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.

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