



THE EMPLOYMENT TRIBUNALS

Claimant: Mr J Breen

Respondent: Royal Borough of Greenwich

Heard at: London South Employment Tribunal (video hearing)

On: 2 October 2026

Before: Employment Judge Robinson

Representation

Claimant: In person

Respondent: Ms Trayers (Counsel)

JUDGMENT

The judgment of the Tribunal is that:

1. The following claims by the claimant were not presented within the three-month time limit and it is not just and equitable to extend the time limit:
 - a. Discrimination arising from disability
 - b. Failure to make reasonable adjustments
2. The following claims by the claimant were not presented within the applicable three-month time limit and the Tribunal is not satisfied that it was not reasonably practicable for the claims to have been presented within time:
 - a. Unfair dismissal
 - b. Breach of contract

REASONS

1. The above judgment was issued to the parties orally at the hearing on 2 October 2026. At that hearing the claimant requested written reasons. My reasons are set out below.

Introduction and background

2. The claimant and the representative of the respondent attended a video Open Preliminary Hearing of one day.

3. The claimant, Mr Breen, was employed by the respondent, the Royal Borough of Greenwich as an Operational Supervisor from 6 January 2014 until his dismissal on 24 July 2025.
4. ACAS early conciliation started on 5 December 2025 and ended on 11 December 2025. The claim form was presented on 22 December 2025. The response form was received on 20 January 2026.

Claims

5. The claimant's claims were:
 - a. Unfair dismissal
 - b. Discrimination arising from disability
 - c. Failure to make reasonable adjustments
 - d. Breach of contract
6. This preliminary hearing was listed to determine whether the claimant's complaints should proceed despite the fact that they had been presented outside the applicable statutory time limits. The claimant accepts that the claims were presented late but requested that the exceptions to the primary limitation periods should be applied.

Procedure, documents and evidence heard

7. The parties submitted an agree bundle of documents of 84 pages. I also had a 2-page witness statement from the claimant. I heard oral evidence from the claimant.
8. I have carefully considered the documentary evidence that I was referred to during the hearing, together with the claimant's oral evidence and the parties' closing submissions.

Relevant law

9. For the unfair dismissal and breach of contract claims, the test is that such claims must be brought within 3 months or 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 within the 3 months.
10. In considering whether it was reasonably practicable for the claimant to present his complaint in time, I have had regard to the established principle that ignorance or mistake concerning time limits may be relevant but that the Tribunal must consider whether reasonable enquiries could and should have been made. When a claimant knows of their right to complain of unfair dismissal, they are under an obligation to seek information and advice about how to enforce that right.
11. For the discrimination claims, the test as set out in the Equality Act 2010 is that claims may not be brought beyond 3 months or "*such other period as the employment tribunal thinks just and equitable.*"

12. There is no presumption that an Employment Tribunal should exercise its discretion. In fact, the position (as set out in Robertson v Bexley Community Centre t/a Leisure Link [2003] IRLR 434, CA at [25]) is: *"Quite the reverse. A tribunal cannot hear a claim unless the claimant convinces it that it is just and equitable to extend time. So, the exercise of discretion is the exception rather than the rule"*.
13. The Court of Appeal in that case also confirmed that an Employment Tribunal has a wide discretion when considering whether it is just and equitable to extend time.

Findings of Fact, and Conclusions

14. Following a period of prolonged sickness absence, and alleged gross misconduct upon this return, the respondent dismissed the claimant on 24 July 2025. The claimant first contacted ACAS on 5 December, which was around six weeks later than the required date of 23 October 2025.
15. The claimant accepted that his claims were out of time but asserted a range of reasons why he waited so long:
 - a. His mental health condition and his ADHD
 - b. His mistaken belief that the time limit was six months
 - c. Poor Trade Union support and advice
 - d. Ongoing internal processes (e.g. his appeal of the decision to dismiss)
 - e. The respondent's failure to provide him with documents
16. My overall assessment of the evidence, on the balance of probabilities, is as follows in relation to the reasoning for the delay.
17. The claimant had already challenged the fairness of the disciplinary process before his dismissal and accepted that many of the matters relied upon in these proceedings were matters he had previously raised internally. He therefore knew the essential factual basis of his proposed claims by the date of dismissal.
18. The claimant was an operational supervisor and an experienced Unison representative, having acted as a representative for approximately fourteen years and a convener for approximately thirteen years. Although I accept his evidence that he had not personally conducted Employment Tribunal litigation, he knew that Tribunal proceedings existed and that trade union advice could be obtained. The claimant also gave evidence regarding the high degree of responsibility in the job he had with the respondent for several years – including managing hundreds of staff and dealing with many employment-related issues such as sickness and absences. I do not find that the claimant possessed specialist knowledge of Tribunals. However, I do find that he knew Tribunal proceedings existed, knew advice was available through union channels and had significant experience dealing with workplace employment disputes.
19. I accept that the claimant suffered from ADHD and mental health difficulties,

and that the disciplinary process, suspension and dismissal caused him distress. However, the issue is not whether those difficulties were genuine but whether they meant it was not reasonably practicable for him to present proceedings in time or that it would be just and equitable to extend time.

20. My assessment of the evidence is that, throughout the relevant period from July to December 2025, the claimant remained able to pursue matters connected with the employment dispute. He lodged a dismissal appeal, pursued grievance processes, corresponded extensively with the respondent and engaged with trade union representatives.
21. The claimant's principal explanation for the delay was his belief that he had six months in which to bring proceedings, which he had based on his knowledge of human rights claims. I accept that he genuinely held that belief. However, it was not based upon advice given to him. He accepted in his oral evidence that he made no enquiries about the time limit period, undertook no research, did not contact ACAS and did not seek advice regarding time limits before expiry of the three months. His evidence was that it simply did not occur to him that he may be wrong until December once he had received his appeal outcome.
22. On that basis, I have relied upon the established principles that a claimant's ignorance of his rights must be reasonable (Dedman v British Building and Engineering Appliances Ltd 1974 ICR 53, CA) and the real question is whether they ought to have known about their rights (Porter v Bandridge Ltd 1978 ICR 943, CA). Applying those cases to the claimant, I have concluded that ignorance of time limits was not reasonable and, given his circumstances (e.g. paragraph 18 above), he ought to have known about Tribunal time limits.
23. I find that the principal cause of the delay was the claimant's mistaken assumption that he had six months to commence proceedings, coupled with his failure to make enquiries that could reasonably have been made. Whilst his ill-health may have made matters more difficult, I am not satisfied that it prevented him from taking the step of contacting ACAS or checking the applicable limitation period.
24. In relation to the appeal process lasting until December 2025, I have followed the leading case of Palmer and anor v Southend-on-Sea Borough Council 1984 ICR 372, CA, in which the Court of Appeal confirmed that an internal appeal is insufficient by itself to establish that it was not reasonably practicable to present a complaint to a tribunal within the time limit.
25. I also reject the claimant's suggestion that the absence of documents prevented him from commencing proceedings. He knew why he had been dismissed and he was able to lodge an appeal with his reasons almost immediately. There is a distinction between information required to provide all the detail of the claim and information necessary to commence proceedings by lodging a claim.
26. I also attach significance to the fact that, once informed on 4 December 2025 that the limitation period had expired and his claims were out of time, the claimant was able to act promptly with ACAS and with lodging his claim. In my

judgment, that demonstrates that he retained the practical ability to take the necessary procedural steps. It suggests to me that the difficulty was not incapacity due to health issues, but instead his mistaken belief regarding the applicable deadline.

27. Taking all matters into account, I am not satisfied that it was not reasonably practicable for the claimant to present his unfair dismissal complaint (or indeed his breach of contract claim) within time. These two complaints are therefore dismissed as being out of time.
28. In relation to the discrimination complaints, which have the separate legal test of whether I consider it “just and equitable” for the claims to be brought in a period beyond the 3 month time limit, I have considered all the same factual circumstances described above, including the factors weighing in favour of an extension, such as the claimant’s mental health difficulties, the ongoing internal processes and the fact that he acted promptly once he appreciated the true position.
29. However, I place greater weight on the fact that the claimant knew the factual basis of his claims, intended to pursue Tribunal proceedings, remained capable of engaging with the dispute but failed to make enquiries regarding the applicable limitation period. In those circumstances, I do not consider it just and equitable to extend time. The discrimination arising from disability claim and the failure to make reasonable adjustments claim are therefore also dismissed.

Approved by:
Employment Judge
Date: 2 October 2026

Sent to the parties on:
Date: 8 October 2026

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