



EMPLOYMENT TRIBUNALS

Claimant: Ms. S Naluwooza
Respondent: Lewisham Music
Heard at: London South, by video
On: 10 July 2026
Before: Employment Judge Cawthray

Representation

Claimant: In person, not legally qualified
Respondent: Mr. Ryan, Counsel

JUDGMENT was sent to the parties on 21 July 2026, and full reasons were requested in accordance with Rule 60 of the Employment Tribunal Procedure Rules. The following written full reasons are therefore provided:

FULL REASONS

Background, evidence and procedure

1. The hearing was a public preliminary hearing to consider whether the Claimant's claim was in time.
2. I explained the purpose of the hearing and the legal tests being considered and the procedure.
3. The parties had provided a file amounting to 167 pages and at page 68 of the Bundle was the Claimant's witness statement.
4. The Claimant gave an oath and was cross-examined by Mr. Ryan. Both parties gave short oral submissions.
5. I explained my decision and reasons in full orally to the parties at the end of the hearing.

Issues

6. Unfair dismissal and wrongful dismissal

7. Was it reasonably practicable to present the complaint of unfair dismissal and wrongful dismissal within the time limit?
8. If not, was it presented within a reasonable period?
9. Discrimination complaints
10. In relation to the complaints of direct sex, race and disability discrimination, harassment related to sex, race and disability, discrimination arising from disability and failure to make reasonable adjustments: -

The Law

Reasonably practicable test – unfair dismissal and wrongful dismissal;

11. Section 111(2) of the Employment Rights Act 1996 states:

111 Complaints to employment tribunal

- (1) A complaint may be presented to an employment tribunal against an employer by any person that he was unfairly dismissed by the employer.*
- (2) Subject to the following provisions of this section, 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.*

12. It is well established that time limits should be adhered to strictly (relevant case being *Robertson v Bexley Community Centre* 2003 EWCA CIV 576.)
13. The test for extending time under section 111(2) of the Employment Rights Act 1996 has two limbs to it, both of which must be satisfied before a Tribunal will extend time.
14. 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.
15. If the Claimant clears that first hurdle, she 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.

16. The burden of proof is upon the Claimant to establish that it was not reasonably practicable for her to submit her 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”.
17. 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).
18. 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.
19. 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.
20. The principles derived from case law in relation to knowledge and ignorance of time limits and in relation to advice from skilled advisers are well established.
21. It is not reasonably practicable for an employee to present a claim within the primary time limit if she was, reasonably, in ignorance of that time limit.
22. 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.
23. A Claimant will not be able to successfully argue that it was not reasonably practicable to make a timely complaint to an Employment Tribunal, if she has consulted a skilled adviser, even if that adviser was negligent and failed to advise her correctly. Where a claimant has consulted skilled advisers, such as solicitors, the question of reasonable practicability is to be judged by what she could have done if he had been given such advice as they should reasonably in all the circumstances.

Just and equitable test - discrimination complaints

24. Section 123 of the Equality Act 2010 sets out the time limit for bringing harassment and discrimination claims in the Tribunal. It provides that complaints of discrimination should be presented within three months of the act complained of:
 - (1) *Subject to Sections 140A and 140B proceedings on a complaint within Section 120 may not be brought after the end of –*
 - (a) *the period of three 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.”

25. Section 123(1)(b) provides that where a discrimination claim is prima facie out of time it may still be brought “*within such other period as the Tribunal thinks is just and equitable*”. This provides a broader discretion than the reasonably practicable test for other claims, such as unfair dismissal.
26. Again, the time for presenting a claim is extended for the duration of ACAS Early Conciliation, time limits should be adhered to strictly (relevant case being *Robertson v Bexley Community Centre* 2003 EWCA CIV 576 and the burden of proof is on the Claimant.
27. The case law on the application of the “just and equitable” extension includes *British Coal Corporation –v- Keeble* [1997] IRLR 336, in which the Employment Appeal Tribunal (“EAT”) confirmed that in considering such matters a Tribunal can have reference to the factors which appear in Section 33 of the Limitation Act 1980. As the matter was put in *Keeble*:-

“that section provides a broad discretion for the court to extend the limitation period of three years in cases of personal injury and death. It requires the court to consider the prejudice which each party would suffer as a result of the decision to be made and also to have regard to all the circumstances and in particular, inter alia, to –

- (a) the length of and reasons for the delay;*
- (b) the extent to which the cogency of the evidence is likely to be affected by the delay;*
- (c) the extent to which the party sued had cooperated with any request for information;*
- (d) the promptness with which the plaintiff acted once he or she knew of the facts giving rise to the cause of action;*
- (e) the steps taken by the plaintiff to obtain appropriate professional advice once he or she knew of the possibility of taking action.”*

28. However, this list of factors is a guide, not a legal requirement. The relevance of the factors depends on the particular case.
29. In *Abertawe Bro Morgannwg University Local Health Board v Morgan* 2018 ICR 1194 the Court of Appeal noted that the tribunal has a wide discretion and the Tribunal was not restricted to a specified list of factors.
30. The most important part of the exercise is to consider the length and reasons for the delay and balance the respective prejudice to the parties.
31. In *Robertson –v- Bexley Community Centre (T/A Leisure Link)* 2003 [IRLR 434] the Court of Appeal considered the extent of the discretion. The Employment Tribunal has a “wide ambit”. At paragraph 25 of the judgment Auld LJ said:-

“it is also of importance to note that the time limits are exercised strictly in employment and industrial cases. 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 discretion is the exception rather than the rule.”

32. Subsequently in *Chief Constable of Lincolnshire -v- Caston* [2010] IRLR 327 the Court of Appeal in confirming the Robertson approach confirmed that there is no general principle which determines how liberally or sparingly the exercise of discretion under this provision should be applied.

33. In *Department of Constitutional Affairs -v- Jones* [2008] IRLR 128 the Court emphasised that the guidelines expressed in *Keeble* are a valuable reminder of factors which may be taken into account, but their relevance depends on the facts of the particular case. Other factors may be relevant too. At paragraph 50 Hill LJ said:-

34. *“The factors which have to be taken into account depend on the facts, and the self directions which need to be given must be tailored to the facts of the case as found”.*

Facts

35. I made the findings of fact on the evidence presented as far as was necessary to reach conclusions on the issues.

Engagement with ACAS and presentation of claim

36. The Claimant was dismissed on 31 May 2024.

37. Early conciliation began on 19 July 2024 and ended on 16 August 2024.

38. The deadline for submission, taking into account the ACAS conciliation extension provisions was 27 September 2024.

39. The claim was submitted on 31 October 2024.

Knowledge of rights

40. The Claimant has previously been through the employment tribunal process about 10 years ago but she was legally represented throughout that process.

41. It is evident that prior to her dismissal from the Respondent, and for some time after, the Claimant was experiencing a number of significant difficulties in her personal life due to the behaviour of her ex-partner, her own physical and mental and relating to the need to care for her mother. The Claimant was having difficulties with her own mental health and had support from Bromley Mind from April 2024.

42. The Claimant's mother has bipolar disorder and psychosis. The Claimant's mother was sectioned around January to March 2024 and was in hospital for 5 or 6 weeks. On release from hospital the Claimant would visit her mother every other day to check how she was, check she was taking her medication and eating.
43. On 24 April 2024 the Claimant sent the Respondent, who was still her employer at that time, an email in which she referred to having consulted ACAS and her trade union.
44. On 31 May 2024 the Claimant submitted her letter of resignation. The letter clearly sets out the reasons why she says she felt forced to resign, and refers to discrimination related to disability. The letter also references Unison and used the terms constructive dismissal and reasonable adjustments.
45. At some point prior to July 2024 the Claimant instructed a solicitor in relation to her employment related concerns.
46. On 3 July 2024 a letter was sent to the Respondent from a solicitor acting for the Claimant. The letter itself is not in the bundle as it contains without prejudice content.
47. At around the start of July 2024 the Claimant started a temporary role as a Finance Manager at another organisation. The Claimant was let go after around 3 weeks following a health flare up.
48. At some point prior, the Claimant had applied for PIP. She was sent a second rejection letter on 24 July 2024.
49. The Claimant's relationship with her ex partner and broken down at some point prior to July 2024. The Claimant was concerned about his behavior and the safety of herself and children and sought a non-molestation order.
50. On 24 July 2024 the Claimant obtained an emergency non-molestation order against her ex partner. The Claimant's partner did not comply with the order and the Claimant was active in reporting to the police and seeking further restrictions during August 2024.
51. The Claimant attended a hearing in relation to the non-molestation on 1 August 2024.
52. On 6 August 2024 the Claimant's employment solicitor emailed her with name of ACAS conciliator. The Claimant liaised with ACAS directly.
53. On 13 August 2024 the Respondent's solicitor wrote to the Claimant's solicitor setting out its position on the Claimant's allegations.
54. On 16 August 2024 the Claimant obtained her ACAS Early Conciliation certificate. Her oral evidence was that, at that time, she was told she had four weeks to submit her claim. The Claimant knew there was a deadline to submit her claim. Her oral evidence was that she was told words along the lines of - if it was late it would be 50/50 the claim would be let in.

55. On 30 August 2024 the Claimant attended a court hearing on 30 August 2024 in relation to her ex partner.
56. I was not directed to any documents between 30 August and 31 October 2024.
57. The deadline to submit the claim to the Employment Tribunal was 27 September 2024.
58. The Claimant submitted her claim on 31 October 2025. In an email to the Tribunal on the date of submission the Claimant said:

"I am writing to respectfully request the court's understanding and consideration regarding the delay in submitting my ET1 application form.

I sincerely apologize for any inconvenience caused by the delayed submission. At this time, I am navigating significant personal challenges due to my disability and ongoing struggle with depression, which is impacting my ability to complete tasks on time.

Managing daily responsibilities with my condition is often overwhelming. My depression affects my energy, concentration, and motivation, I am also a single parent. These challenges have made it especially difficult for me to meet the initial ET1 submission deadline, despite my best efforts. I attempted to keep up with the process, yet my symptoms at times limit my ability to act promptly, particularly with more complex administrative tasks like this application.

I am very sorry for any disruption my delay may have caused, and I have attached relevant medical information to support my request. I kindly ask the court into account and grant my application, I would deeply appreciate it.

I am committed to moving forward fully in these proceedings without further delay, as this is weighing heavy on me.

Thank you very much for your understanding and for considering my request."

59. Within this email there is no reference to any matters regarding her ex-partner, or her mother. In oral evidence the Claimant said the main reason for the delay was the need to keep herself and her children safe.
60. It is not necessary to examine events after this date, although it is noted difficulties with her ex-partner continued.

Conclusions

61. I have set out below my conclusions, and it must be noted that I have only been able to reach my conclusions by applying the law to the facts as I have found them based on the evidence available to me. It is not permissible for a Tribunal to undertake a wider fact finding enquiry outside what is readily known and presented to it.
62. The deadline for submitting the unfair dismissal and notice pay claim would have been 27 September 2024 taking into account early

conciliation. The claim was presented on 31 October 2024, over a month late.

63. In the context of a three-month deadline, the delay of one month is significant.

64. The last alleged act of discrimination was 31 May 2024, the dismissal, and for the same reasons this is also out of time.

Reasonably practicable – unfair dismissal and wrongful dismissal

65. The Claimant agreed that the claims had been presented outside the time limit.

66. The first issue to be determined therefore was whether or not it was reasonably practicable for the Claimant to have submitted her claims within the 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.

67. The Claimant knew that she was unhappy with her treatment at work and resigned on 31 May 2024. Indeed, she set out the basis of her concerns clearly in her resignation letter.

68. The Claimant exchanged correspondence with the Respondent directly regarding pay and annual leave after her employment ended.

69. The Claimant promptly, by the latest start of July 2024, engaged with a solicitor about her employment related concerns, who corresponded with the Respondent.

70. The Claimant also engaged with ACAS for the purposes of Early Conciliation.

71. I accept the Claimant was trying to seek to potentially resolve the matter, I also accept that the Claimant was experiencing a lot of personal stress - in particular regarding her ex partner. However, despite this in July and early August, based on the facts, the Claimant did take prompt action regarding her employment concerns notwithstanding her other stress factors.

72. On her own evidence the Claimant was aware of the time limit from at least 16 August 2024, when she says she was told she had four weeks to submit the claim by ACAS. She also undertook her own research.

73. There was no clear explanation of why the Claimant could not present her claim between 16 August and 27 September 2024.

74. It is noted that in August the Claimant was dealing with breaches by her ex-partner but after 30 August 2024 there has been no specific events or proceedings referred to that would have impacted her further in September 2024.

75. Although I fully appreciate the Claimant has had a very challenging time with her ex-partner, and has caring commitments, as well as struggling with health issues she was still able to action and pursue her employment issues and was seeking to resolve matters and raised issues with the

Respondent in the first instance. Indeed, she was also still able to start a new employment role elsewhere in July 2024.

76. The law is clear - time limits must be strictly adhered to.
77. I took into account that the Claimant had, with assistance from Unison and a solicitor, identified concerns and complaints at an early stage and conducted online research.
78. Accordingly, as there was no clear evidence of any impediments to lodging the claim form in September 2024, I concluded that it was reasonably practicable for the Claimant to bring her claims in time.
79. My conclusion is therefore that the unfair dismissal and wrongful dismissal complaints against the Respondents had not been submitted within the 3-month time limit as extended by ACAS and that it had been reasonably practicable for the Claimant to have complied with and submitted her claim form within the requisite period.
80. It is not therefore necessary for me to consider the second limb of the test.

Just and Equitable – discrimination complaints

81. I then considered the just and equitable test in relation to discrimination complaints and considered the case law. Much of the same factual analysis also applies in this test, so I have not repeated it.
82. As noted, the Claimant agreed that her claims had been presented outside the time limit and therefore that was not an issue which I needed determine.

Length of delay

83. The last alleged act of discrimination was 31 May 2024 – the Claimant says this was a constructive discriminatory dismissal.
84. As noted, the claim was submitted just over a month late.
85. Although a month may not seem a long time, in the context of a primary time limit of only 3 months, a delay of one month is significant. This is not a case where the claim was just a few days late.

Reasons for delay

86. The Claimant was aware of the facts that gave rise to the claims by 31 May 2024. This is evident from her resignation letter.
87. The email to the Tribunal on 31 October 2024 says the reason for the delay is her ill-health and depression. This was not the main reason cited today.
88. There is no clear evidence of what caused the Claimant to not submit her claim between 16 August and 31 October 2024. As noted above, in

August 2024 the Claimant was dealing with breaches by her ex-partner and preparing for court on 30 August 2024, but the period after the hearing in September and October 2024 has not been accounted for.

89. I acknowledge that raising concerns in the workplace, and in an Employment Tribunal, can be a daunting process, and this can in some cases account for delay in concerns being raised, both internally and externally. However, in this case this is not the situation. The Claimant set out her concerns as early as 31 May 2024 and was familiar with Tribunal processes.
90. I note the Claimant started attending Bromley Health in April 2024, this was before she stopped working. However, I was not directed to any medical evidence regarding the period August to October 2024.
91. I note that due to a range of challenges the Claimant may indeed have been struggling with her mental health but between April and August 2024 the Claimant still took steps to pursue her enquiries with unison, ACAS and a solicitor. I therefore conclude that there is no evidence before me on which I can find that her ill health was a reason for delaying in submitting her claim.
92. Further, the Claimant has not accounted for the delay in submitting her claim between 16 August and 31 October 2024.
93. The Claimant provided no specific explanation for the delay, and did not act as promptly as she could following the information from ACAS. I took into account that the Claimant was an intelligent and educated person and that she was under an obligation to investigate her legal rights and her obligations in respect of the time limits which apply to claims in an Employment Tribunal.
94. The Claimant had reasonable opportunity to research her legal rights. Indeed, she did so and she did take steps by consulting with lawyers and later ACAS.
95. It is for the Claimant to persuade the Tribunal that it would be just and equitable to extend time, and in the absence of medical evidence to support the Claimant's assertion of her mental health in the period August to October 2024, she has not done so.

Prejudice to parties – cogency of evidence - impact on delay

96. In considering the balance of prejudice and hardship, it is the case the Claimant will lose her right to bring a claim. However, there is no part of her claim that is in time, and the allegations go back to May 2024, some 2 years ago. The loss of the right to bring a claim is a consequence of the time limit provisions, which are intentionally short. Although it is noted there has been delay in matters progressing to hearings due to the volume of claims.
97. One of the Respondent's witnesses is no longer employed, which is likely to make obtaining witness evidence very difficult, if not impossible.

98. All witnesses, including the Claimant, will be negatively impacted by the delay and the ability to recall matters.

99. From the evidence as a whole the picture emerges of an individual that chose to set out matters promptly and took initial action. I do not accept that any ill-health from mid August 2024 acted as a barrier in bringing a claim. I do not consider all the personal issues with her partner fully explain the delay, particularly in September 2024, as the Claimant was managing various matters alongside this difficult situation including starting a new job in July. Delay will prejudice all parties, but particularly the Respondent in seeking to obtaining evidence from a former employee.

100. Putting matters together overall, and taking into account all these factors, and applying the test set out in the legislation, and reminding myself that extending time is the exception not the rule, my judgment is that the Claimant has failed to show it would be just and equitable to extend the time limit to bring the discrimination complaints.

101. As I have concluded that the entire claim is out time, the claim will not continue and is dismissed.

Approved by:

Employment Judge Cawthray

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.

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/