



EMPLOYMENT TRIBUNALS

Claimant: *Mr X*
Respondent: Boots Management Services Limited

Heard at: Watford Employment Tribunal
On: 4 August 2025
Before: Employment Judge Alliott

Representation

Claimant: In person
Respondent: Mr L Wilson (counsel)

JUDGMENT

The judgment of the tribunal is that:

1. The claimant's claims of disability discrimination were presented out of time and it is not just and equitable to extend time. Consequently the claimant's claims of disability discrimination are dismissed as there is no jurisdiction to hear them.

REASONS

Introduction

1. This public preliminary hearing was ordered by Employment Judge Dick on 7 May 2025 to "decide whether to extend time limits as a substantive issue (ie on the basis of evidence and submissions) and will decide the respondent's application for strike out on the basis that the complaints have no reasonable prospect of success (in short, because the respondent says the claimant's case is weak) after hearing submissions from the parties".
2. Although there is no formal list of issues, the case management summary of Employment Judge Dick recites as follows:-

"The claim centres around the claimant's dismissal after he had taken (in both senses of the word) drugs from the respondent's pharmacy. There does not appear to be any dispute that this happened – Indeed, the claimant accepted a police caution for theft. The claimant does however say there were significant mitigating circumstances – what he took was medication he needed for his ADHD but was not getting due to shortages, and the lack of medication had, he says, affected his executive functioning. He complains, amongst other things, about the fact and manner of his dismissal, including the disciplinary process, as being disability discrimination."

3. During the course of this hearing, it became clear to me that the claimant's complaints extend to more than an allegation that the dismissal was an act of disability discrimination. The claimant complains about a communication from the respondent to the University College London and the General Pharmaceutical Council on 15 May 2023 stating, "We dismissed the claimant" and going on to assert that the respondent was unable to state more.
4. The claimant became aware of this communication on 23 July 2023 which he characterised at the time as being a GDPR breach. For the purposes of this hearing, I have taken the claimant's claim to extend to a complaint about disability discrimination in relation to that communication. This is because in his claim form the claimant references breach of confidentiality and disclosure of sensitive information.

The law

5. Section 123 of the Equality Act 2010 provides as follows:-

"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.
- ...
- (3) For the purposes of this section—
 - (a) conduct extending over a period is to be treated as done at the end of the period;"

6. As per the IDS Employment Law Handbook Practice and Procedure at 5.128:

"While Employment Tribunals have a wide discretion to allow an extension of time under the "just and equitable" test in section 123, it does not necessarily follow that the exercise of the discretion is a forgone conclusion. Indeed, the Court of Appeal made it clear in *Robertson v Bexley Community Centre t/a Leisure Link* [2003] IRLR 434, CA, that when tribunals consider exercising the discretion under what is now section 123(1)(b) Equality Act, "There is no presumption that they should do so unless they can justify 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". The onus is therefore on the claimant to convince the tribunal that it is just and equitable to extend the time limit. However, this does not mean that exceptional circumstances are required before the time limit can be extended on just and equitable grounds. The law simply requires that an extension of time should be just and equitable."

The evidence

7. I had a witness statement and heard evidence from the claimant.
8. I had a hearing bundle of 188 pages. In addition, both the respondent and the claimant submitted written submissions.

The facts

9. The claimant was employed on 25 July 2022 as a Trainee Store Advisor.
10. The claimant has a number of medical issues which, for the purposes of this hearing, I assume he will establish as being disabilities within the meaning of the Equality Act 2010. I had a psychological report dated 28 August 2023 (which Mr Wilson did not have access to). In addition to the claimant's ADHD reference is made to major depressive disorder, clinical depression, possible autism, and PTSD.
11. It is the claimant's case that for two weeks prior to 9 March 2023 he had been unable to source crucial medication to control his ADHD. The psychological report states that:

“At the time, **Mr X** rational judgment appears to have been severely compromised by the overpowering impact of withdrawal symptoms, rendering him incapable of making logical choices.”

12. On 9 March 2023, whilst at work, the claimant took controlled drugs, ingested some and placed the remainder in his pocket, intending to take them from the workplace. The controlled drugs were those he required for his ADHD. The disappearance of the drugs was discovered, the claimant was searched, and the drugs were found in his possession.
13. On 13 March 2023 there was a disciplinary investigation meeting with the claimant.
14. On 17 March 2023, the claimant was summoned to a disciplinary hearing. He was summarily dismissed for gross misconduct.
15. The claimant appealed and his appeal hearing was heard on 31 March 2023. In the appeal hearing notes reference is made to the claimant having a barrister and a psychologist contact UCL during the course of his appeal against being excluded. In the same meeting the claimant is recorded as saying as follows when asked about his complaint that he was being unlawfully ignored: -

“Yes, I spoke to my barrister and he said I have a case for a tribunal but why would I do that to a company I want to work for, he was looking after his own career trying to milk me.”

16. Notwithstanding that response from the claimant, the claimant had actually notified Acas on 20 March 2023 and was already in receipt of the EC certificate which had been issued on 29 March 2023.
17. Thus, from a very early stage in these proceedings, it is clear to me that the claimant had access to legal advice and that he was aware of the need to notify Acas before bringing a claim in the employment tribunal.

18. The claimant presented his claim in this case on 17 April 2024. The period of early conciliation relied upon was from 9 March to 5 April 2024.
19. When asked to explain why he had delayed so long, the claimant in essence said that he had more pressing matters to deal with. There was his appeal against being excluded by UCL and, in August 2023, he was contacted by the police which ultimately led him to be administered a police caution. It would appear that the claimant accepted the police caution on the advice of someone who was assisting him on the basis that the alternative was potentially worse, ie, a prosecution.
20. The claimant also referred to his ill-health. I have no doubt that this was an extremely stressful time. However, the fact of the matter is that the claimant had access to legal advice throughout this period. In an email dated 24 July 2023 the claimant states:-

“I am currently in the process of seeking legal counsel to explore the possibility of filing a formal complaint against Boots, citing several potential GDPR violations.”

21. When asked why the claimant had not launched his claim at that stage, he replied because he wanted to succeed against the university first.
22. In addition to access to legal advice, the claimant had a psychological report on 30 May 2023 which stated that in the writer’s opinion the respondent had “unlawfully and unethically overlooked mitigating circumstances”.
23. By 6 September 2023, the claimant was sending emails which contained the following: -

“I must emphasise that I have sought advice from several employment law experts who have reviewed my case and expressed confidence in the grounds I have for taking legal action against Boots regarding these matters.”

24. On 14 September 2023, the claimant’s emails were headed:

“Subject: Discrimination claim”

25. It is notable that at that stage the claimant was stating that his claim was not related to dismissal or other employment issues but did refer to the alleged GDPR breach.
26. The claimant asserted that he was not aware of the time limit of three months to present his claim due to mental health difficulties. I doubt that he was unaware. The claimant had been engaging with Acas since March 2023 and everything on the Acas website references the three-month time limit. Further, the claimant had legal advice and was asserting that he had a good claim.
27. In any event, any ignorance of the claimant I find to be unreasonable given his access to legal advice. Further, his health issues did not prevent him from engaging to the extent that is clear in the emails, and he would have been able to engage with his legal advisors.
28. I take into account the length of the delay. Taking 23 July 2023 as the date on which the claimant had the requisite knowledge of alleged disability

discrimination the claimant delayed another nine months before issuing his claim.

29. I find the claimant's reasons for the delay to be unconvincing. Whilst it may be laudable to try and seek a negotiated settlement, the appeal against his dismissal was long gone. The length of the delay is, in employment tribunal terms, significant. Any delay is likely adversely to affect the cogency of the evidence. The claimant did not act promptly once he knew of the facts giving rise to his potential cause of action. I have already outlined the steps taken by the claimant to obtain appropriate advice.
30. Taking all the above into account, in my judgment it would not be just and equitable to extend time for the claimant to bring these claims.
31. Because of my decision, it is not necessary to deal with the respondent's strike out application.

Approved by:

Employment Judge Alliot

Date: 24 September 2025

JUDGMENT SENT TO THE PARTIES ON
02/10/2025

FOR THE TRIBUNAL OFFICE

Notes

All judgments (apart from judgments under Rule 51) and any written 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/