



EMPLOYMENT TRIBUNALS

Claimant: Ms S Dwivedi

Respondent: Ragartisan

Heard at: Midlands East Tribunal

On: 10 July 2026

Before: Employment Judge Brewer

Representation

Claimant: In person

Respondent: No attendance

JUDGMENT

The judgment of the Tribunal is that the claimant presented her claim out of time, the Tribunal does not have jurisdiction to hear it and the claim is therefore dismissed

REASONS

Introduction

1. This case was listed for a short hearing to deal with the claimant's claim for unauthorised deductions from wages.
2. The respondent did not file a response and did not participate in the hearing.
3. I heard evidence from the claimant.

Issues

4. The issues are:

4.1. Was the unauthorised deductions complaint made within the time limit in section 23 of the Employment Rights Act 1996 (ERA)? The Tribunal will decide:

- 4.1.1. Was the claim made to the Tribunal within three months (plus early conciliation extension) of the date of payment of the wages from which the deduction was made?
- 4.1.2. If not, was there a series of deductions and was the claim made to the Tribunal within three months (plus early conciliation extension) of the last one?
- 4.1.3. If not, was it reasonably practicable for the claim to be made to the Tribunal within the time limit?
- 4.1.4. If it was not reasonably practicable for the claim to be made to the Tribunal within the time limit, was it made within a reasonable period?
- 4.2. If the Tribunal hears the claim, Did the respondent make unauthorised deductions from the claimant's wages and if so, how much was deducted?

Law

5. For the reasons which follow I set out here the law relating to time limits as it applies in this case.
6. S.23 ERA should be given a 'liberal construction in favour of the employee' (see **Dedman v British Building and Engineering Appliances Ltd** 1974 ICR 53, CA, an unfair dismissal claim but the reasoning applies here).
7. The onus of proving that presentation in time was not reasonably practicable rests on the claimant. '*That imposes a duty upon him to show precisely why it was that he did not present his complaint*' (**Porter v Bandridge Ltd** 1978 ICR 943, CA).
8. Accordingly, if the claimant fails to argue that it was not reasonably practicable to present the claim in time, the tribunal will find that it was reasonably practicable (**Sterling v United Learning Trust** EAT 0439/14).
9. Even if a claimant satisfies a tribunal that presentation in time was not reasonably practicable, that does not automatically decide the issue in his or her favour. The tribunal must then go on to decide whether the claim was presented 'within such further period as the tribunal considers reasonable' (see below).
10. in **Palmer and anor v Southend-on-Sea Borough Council** 1984 ICR 372, CA, the Court of Appeal conducted a general review of the authorities and concluded that 'reasonably practicable' does not mean reasonable, which would be too favourable to employees, and does not mean physically possible, which would be too favourable to employers, but means something like 'reasonably feasible'. Lady Smith in **Asda Stores Ltd v Kauser** EAT 0165/07 explained it in the following words: '*the relevant test is not simply a matter of looking at what was possible but to ask whether, on the facts of the case as found, it was reasonable to expect that which was possible to have been done*'.

11. What amounts to a 'further reasonable period' for the purposes of S.111(2)(b) is essentially a matter of fact for the employment tribunal to decide on the particular circumstances of the case. There is no hard and fast rule about what period of delay is reasonable and the extent of the delay is just one of the circumstances tribunals will need to consider.
12. In **Cullinane v Balfour Beatty Engineering Services Ltd and anor** EAT 0537/10 Mr Justice Underhill, then President of the EAT, commented that the question of whether the period between expiry of the time limit and the eventual presentation of a claim is reasonable requires an objective consideration of the factors causing the delay and of what period should reasonably be allowed in those circumstances for proceedings to be instituted. Crucially, this assessment must always be made against the general background of the primary time limit and the strong public interest in claims being brought promptly.

Findings of fact

13. I limit my findings to the issue of time limits, but I just pause to note that some of what the claimant said during her evidence caused me some concern. For example, when discussing documentary evidence, she referred to invoices, and when discussing where she worked, she confirmed that in fact she had been employed in India, did work for a US company as well as, as she put it, 'Artisan India'. There seems to me some doubt as to whether the claimant was a worker in respect of whom the Tribunal has jurisdiction, however, the point is moot for the reasons set out below.
14. For the discussion about time limits I am assuming that the claimant was a worker for the purposes of section 13 and 23 ERA.
15. The claimant was employed by the respondent from 9 September 2024 to 10 November 2024 as a Textile Designer.
16. She says that she was not paid at all for her work.
17. She is computer literate, has a laptop and knows how to undertake research.
18. The claimant was in the UK at some points in 2024, but she travels regularly between the UK and India and was not specific about when exactly she was in the UK. She recalls that she went to India in December 2024. She says she returned to the UK in March 2025.
19. The last date the claimant expected to be paid was 10 November 2024.
20. The claimant contacted ACAS for early conciliation on 21 May 2025.
21. The early conciliation certificate was issued on 27 May 2025.
22. The claim form was filed on 20 June 2025.

Discussion and conclusions

23. The claim should have been presented to the Tribunal by 9 February 2025. The claimant does not get any extension for early conciliation because she contacted ACAS after the normal 3-month time limit had expired.
24. It follows that the claim was presented just short of 19 weeks out of time.
25. I asked the claimant why she did not contact ACAS or otherwise submit her claim in time. She seemed confused by the question and began by talking about an earlier hearing being pulled from the list. It took some time to explain the point I was asking about.
26. Having spent some time on this, the short answer was that there simply was no explanation. The claimant did not say she was ignorant of her rights or of time limits (and if she had I would have found that this was not reasonable in all the circumstances).
27. It seems to me that the claimant went to work in India shortly after she left the respondent and did not think about the non-payment at all.
28. It is unclear when or why it occurred to the claimant that she could make a claim for unpaid wages. If she came to the UK again in March 2025, as she said in evidence, it is unclear why she did not contact ACAS for early conciliation until 20 May 2025. I asked the claimant about this. She gave no explanation.
29. I also asked the claimant why, once she had received her early conciliation certificate, she waited another almost 4 weeks to present her claim. Again, she gave no reason for this delay.
30. I note, and I consider it relevant, that the claim is simple. It is for unpaid wages and the claim itself is set out in one sentence in the claim form, so the claimant cannot rely on complexity or the need to seek advice as a reason for delay.
31. In conclusion, I find that it was reasonably practicable for this claim to have been brought in time and for that reason the Tribunal does not have jurisdiction to hear this claim.
32. I also find, for completeness, that the time taken beyond the normal time limit to bring the claim was not reasonable in all the circumstances and this would also mean that the Tribunal does not have jurisdiction.
33. For those reasons the claim is dismissed.

Approved by:

Employment Judge Brewer

Dated: 10 July 2026

Sent to the parties on

.... 16.. October 2026.....

For the Employment Tribunal

.... Hakeem Nuama.....

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