



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr Kevin Jackson

**Respondent:** Collett Holdings Limited

**Heard at:** Leeds Employment Tribunal (by CVP)

**On:** 18 February 2022

**Before:** Employment Judge Barrett

**Representation**  
Claimant: Represented himself  
Respondent: Mr Nigel Thornton, Compliance Director

## CASE MANAGEMENT ORDER

1. The name of the Respondent is amended by consent from Collett + Sons Limited to Collett Holdings Limited.

## JUDGMENT

The judgment of the Tribunal is that: -

1. The Claimant's unfair dismissal claim was presented outside the statutory time limit and the Tribunal does not have jurisdiction to hear it.
2. The Claimant's claim is dismissed.

# REASONS

*This has been a remote hearing, which has not been objected to by the parties. The form of remote hearing was by Cloud Video Platform. A face-to-face hearing was not held, because it was not practicable, and all issues could be determined in a remote hearing.*

1. The judgment dismissing the Claimant's claim and reasons for the judgment were explained to the parties during the video hearing. However, the Claimant's connection was poor, and I am not satisfied that he had a proper opportunity to hear and understand those reasons. I therefore record in writing what was said during the hearing.
2. Despite the poor connection, I am satisfied that the Claimant was able to communicate to me during the hearing all the information he wanted me to know about the presentation of his claim.

## **Findings of fact**

3. The Claimant started working for the Respondent on 10 July 2006. At a disciplinary hearing on 3 March 2021, the Respondent decided to dismiss the Claimant. The dismissal decision was communicated in a letter sent by recorded delivery which the Claimant received and read on 8 March 2021. Therefore, the date of dismissal was 8 March 2021.
4. The Claimant considered that he had been unfairly dismissed. He contacted ACAS on 29 April 2021. ACAS issued an Early Conciliation certificate that same day. The Claimant tells me that ACAS also gave him the telephone number of the Leeds Employment Tribunal.
5. The Claimant telephoned the Leeds Employment Tribunal. He cannot remember when he made the telephone call, but it was two or three months after speaking to ACAS. I find this happened at the end of June 2021 at the earliest.
6. The staff member he spoke to at the Employment Tribunal told the Claimant that he needed to submit an ET1 claim form. The Claimant requested a paper copy of the form.
7. There was a delay before the Claimant received the form. The Claimant cannot remember when he received it, but says he only took a couple of days to fill it out and send it back. That suggests he received the paper form at the beginning of October 2021. The Claimant says he was told that Covid caused the delay.
8. The Claimant completed the ET1 form and posted it to the Employment Tribunal where it was received on 5 October 2021.

## **The law**

9. Section 111 Employment Rights Act 1996 ('ERA') provides (as relevant):

**(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.

10. The Court of Appeal in *Palmer v Southend-on-Sea Borough Council* [1984] ICR 372 at [34] held that to construe the words 'reasonably practicable' as the equivalent of 'reasonable' would be to take a view too favourable to the employee; but to limit their construction to that which is reasonably capable, physically, of being done would be too restrictive. The best approach is to read 'practicable' as the equivalent of 'feasible' and to ask: 'was it reasonably feasible to present the complaint to the Industrial Tribunal within the relevant three months?'
11. In *Walls Meat Co Ltd v Khan* [1979] ICR 52 at p.56, Denning LJ held that the following general test should be applied in determining the question of reasonable practicability.

**'Had the man just cause or excuse for not presenting his complaint within the prescribed time limit? Ignorance of his rights – or ignorance of the time limit – is not just cause or excuse, unless it appears that he or his advisers could not reasonably have been expected to have been aware of them. If he or his advisers could reasonably have been so expected, it was his or their fault, and he must take the consequences.'**

## Conclusion

12. The three-month period for the Claimant to present his claim started on 8 March 2021, the day he was dismissed. The clock was stopped for one day when the Claimant undertook the early conciliation process with ACAS on 29 April 2021. The deadline therefore fell on 8 June 2021. The ET1 was presented almost 4 months later than that.
13. The question I need to answer is whether it was reasonably practicable for the Claimant to present his claim by 8 June 2021? I conclude that it was, for the following reasons.
- 13.1. The Claimant confirmed that he had access to the internet and could have looked up the process for making an Employment Tribunal claim but did not do so.
- 13.2. The Claimant could have asked a colleague whom he knew was pursuing an Employment Tribunal case what the process was (the colleague's case is referred to in the ET1).
- 13.3. The Claimant could have contacted the Employment Tribunal and found out how to submit an ET1 form earlier. I note that by the time the Claimant first contacted the Employment Tribunal, it was already at least 3 weeks after the deadline. Therefore, any Covid-related delay in the paper form being sent out was not the reason why the Claimant missed the deadline.
- 13.4. I asked the Claimant whether there were any circumstances (for example, illness or difficulties in understanding the process) which might have made it

harder for him to submit his ET1 claim form. He told me there was no physical reason why he could not submit the form and there was nothing else he could say.

14. As it would have been reasonably practicable for the Claimant to present his ET1 by 8 June 2021 there is no basis for an extension of time. The Tribunal lacks jurisdiction to hear the Claimant's unfair dismissal claim and the claim must be dismissed.

Employment Judge Barrett

Date:

18 February 2022

JUDGMENT & REASONS SENT TO THE  
PARTIES ON:

21 February 2022

FOR THE TRIBUNAL OFFICE