



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss. C. Tatar

**Respondent:** Cherry Orchard Care Limited

**Heard at:** Bristol (Vintry House)

**On:** 10<sup>th</sup> November 2017

**Before:** Employment Judge R. Harper

## Representation

**Claimant:** No attendance

**Respondent:** No attendance (No ET3 filed either)

# JUDGMENT

The claim was filed out of time and the Tribunal does not have jurisdiction to deal with it.

# REASONS

1. The claimant was employed or was a worker from 1/2/17 to 3/2/17. The ET1 was filed on 4/7/17. The claimant took some time to refer the matter to ACAS. No explanation is provided for that delay. The matter was in fact referred to ACAS on 28/4/17 and the EC Certificate was issued by ACAS on 28/5/17. No explanation is provided for the delay between 28<sup>th</sup> May 2017 and the 4<sup>th</sup> July 2017. The claim should have been filed with the tribunal by 28<sup>th</sup> June 2017. The claim was served on the respondent on 28/7/17 and the ET3 should have been filed by the respondent by 25/8/17. No ET3 has been filed and nothing has been heard from the respondent.
2. The ET1 seemed to acknowledge that the claim had been filed late. The ET1 stated, *"Please allow the extra time given the facts I have stated and my attempts to first try and exhaust all my options by contacting the employer and then going further, reaching to last resort. Please allow me the extra few days over the deadline and accept this claim to go through."*
3. The case was listed today to consider whether to allow the claim to proceed as it was filed out of time and if the claim was allowed to proceed, to consider how much the claimant was owed. The respondent did not

attend the hearing despite being notified of it on 28<sup>th</sup> July 2017.

4. The claimant wrote an email to the tribunal at 0338 this morning stating that she would be "*still abroad until further notice*" and that she was not attending the hearing. Her email continued "*I hope that the written evidence provided by email will be sufficient to sustain my case without requiring my presence....*"
5. The difficulty the claimant has is that the claim was filed out of time. The test for complying with filing deadlines is a strict one – whether it was reasonably practicable to have filed the claim in time. The claimant was aware the claim had been filed late. She was made aware of the test to be applied by a tribunal letter dated 5<sup>th</sup> September 2017.
6. It is clear from her email sent today that there is no indication at all as to when she would return to attend, if at all, any hearing. It was therefore pointless, and not in the interests of justice, to consider adjourning the hearing indefinitely.
7. The onus is on the claimant to advance compelling reasons at a hearing why it was not reasonably practicable to have filed the claim on time. She has chosen not to attend the hearing or advance any additional reasons for the late filing of the claim.
8. The reasons advanced in the ET1 are not compelling reasons why the claim could not have been filed in time. There was nothing at all which prevented her filing the claim in time.
9. The claim was filed late and the tribunal does not have jurisdiction to deal with it.

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Employment Judge R. Harper

Date 10<sup>th</sup> November 2017

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE