



EMPLOYMENT TRIBUNALS

Claimant: A Wilson

Respondent: Booker Retail Partners (GB) Ltd

Heard at: Southampton **On:** 25 March 2019

Before: Employment Judge Housego

Representation

Claimant: In person

Respondent: J Filson, solicitor, of Eversheds Sutherland

JUDGMENT

The claim is dismissed

REASONS

1. This is a preliminary hearing to consider, only, whether the Tribunal has jurisdiction to hear the claim.
2. The claim is for unfair dismissal and the time limit is 3 months, extended by reason of the early conciliation provisions.
3. If the claim was filed outside the time limit, the Tribunal can only hear it if it was not reasonably practicable to file it in time. (If it was reasonably practicable it must then have been filed within such further period as the Tribunal considers reasonable.)
4. The claimant was dismissed on 28 November 2017. This was at a disciplinary hearing, and there is no dispute about the date.
5. The claimant was not happy about the length of time it took to hear (and dismiss) his appeal, but it was finished before the 3 month period elapsed.
6. On 26 February 2018 the claimant applied for an early conciliation certificate, as he was obliged to do. The respondent does not say this was out of time, because clearly it was in time.
7. Acas issued the certificate on 26 March 2018. The time limit was then 1 month from the issue of that certificate, and that ran out on 26 April 2018.

8. The claim form was received by the Tribunal on 10 May 2018. That is 14 days after the time limit, so the respondent is right, the claim was filed outside the time limit.
9. Therefore the claim must be struck out unless the claimant can show that it was not reasonably practicable to put in it on or before 26 April 2018, and that he put it in within a further period that is reasonable.
10. The claimant says that he contacted Acas, and that they did not tell him of the date by which he had to put in his claim. He says he did not think to ask the CAB or anyone else. He knew there was a time limit, but not what it was. He was very busy in his new job in March. He is a transport manager, and the weather in March 2018 was very bad, with lots of snow, which did not help, but mainly he was considering whether to move on with his life or to bring this claim. He pondered this for 4, 5 or 6 weeks and then decided to claim.
11. This is all understandable and rational, as a thought process, but it is not the case that the respondent was in any way responsible for the claimant not putting in his claim in time, and nor is it said that Acas misled the claimant. The claimant did not ask the Tribunal, and nor did he seek advice from any one else. There is no one at fault to account for the late submission of the claim. The claimant knew there was a time limit – it was obvious to him that there must be one – but he did not find out what it was. He was 14 days outside it when he filed his claim, but there was nothing stopping him doing so as soon as the early conciliation certificate was filed.
12. Since the point of applying for an early conciliation certificate is to be able to file the claim, there is no reason why the claimant could not have got the claim ready starting on 26 February 2018 (when he notified ACAS) so that he had 2 months to get the claim form ready, and a month to hit the send button.
13. Accordingly it was reasonably practicable for the claimant to file the claim within time, and as it was filed out of time the claim must be dismissed.
14. The solicitor for the respondent indicated that he was not presently instructed to seek costs, but that such an application can be submitted within 14 days. I record that the claimant made his submissions to me with candour and integrity, and it is clear that he genuinely feels that he was treated unfairly after 30 years employment, and that this is not a case where the claimant has behaved in any way vexatiously or deliberately so as to cause the respondent unnecessary expense.

Employment Judge Housego

Date 25 March 2019