



EMPLOYMENT TRIBUNALS

Claimant: Mr V Ehonjie

Respondent: Ladbrokes Coral Group

Heard at: London Central

On: 18 June 2019

Before: Employment Judge Davidson

Representation

Claimant: in person

Respondent: did not attend

JUDGMENT

The claimant's complaint of unlawful deductions from wages is out of time and the tribunal does not have jurisdiction to consider the complaint. The complaint is therefore dismissed.

Employment Judge Davidson

Date 20 June 2019

JUDGMENT & REASONS SENT TO THE PARTIES ON

24 June 2019

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FOR EMPLOYMENT TRIBUNALS

REASONS

Introduction

1. The hearing was to consider the claimant's claims for unlawful deductions from wages identified in the Originating Application as being:
 - a. Incorrect deduction of tax
 - b. Incorrect deduction of £471.12
 - c. Insufficient holiday pay
2. At the outset of the hearing, he confirmed he was not pursuing the incorrect deduction of tax as he had received repayment from HMRC. He was also not challenging the amount of sick pay he had received.
3. The respondent did not attend the hearing and relied on the representations in the Notice of Appearance.

Time Issue

4. The time limit for presenting a claim for unlawful deductions from wages is three months from the date of the deduction (or the last deduction in a series of deductions).
5. The Tribunal is able to consider complaints presented out of time only if it is satisfied (1) that it was not reasonably practicable for a complaint to be presented before the end of the relevant three month period, and (2) if so, that it was presented within such further period as it considers reasonable. The burden lies on the claimant at both stages of the test.
6. It is a question of fact in each case whether it was reasonably practicable to present a claim in time. A claimant's illness maybe relevant to the question of reasonable practicability and a Tribunal can exercise leniency in such situations but the Tribunal still needs to decide whether it was reasonably practicable for the claimant to have presented his claim in time.
7. The respondent submitted that the claimant's complaint was out of time and the tribunal did not have jurisdiction to consider it. The last day of employment was 15 August 2018 and the relevant payslip showing the deduction was dated 29 August 2018. The claimant commenced early conciliation on 12 November 2018 which was within three months of the deduction. The conciliation certificate expired on 26 December 2018 and the claimant then had one month in which to present his claim, that is, by 25 January 2019.
8. In the event, the claim was presented on 26 February 2019 and was, on the face of it, out of time.
9. The claimant's explanation for the late submission was that he was seriously ill in the period prior to February 2019 and was making frequent visits to the hospital and was immobile and generally in a bad way with problems with his

sight for which he had an operation in May 2019. He began to improve in February 2019 which is why he was able to present his claim then.

10. He confirmed that his wife had a computer and they had internet access and it was his wife who submitted the claim on his behalf. His own computer did not work. When asked why she could not have submitted it earlier, his explanation was that she was too busy trying to run her business and look after him, there was no time for anything else.
11. The claimant presented no medical or other evidence to show that he was unable to present his claim within the specified time period. I accept that he was unwell but I am not satisfied that he has shown it was not reasonably practicable for him to present his claim. The test is a strict test. The claim itself is not complex and, even if he had issues with his vision and other medical problems, his wife was able to submit the claim for him, as she ultimately did. In addition, he appears to have been well enough to engage with ACAS in December 2018 and January 2019.

Decision

12. The claimant's complaint of unlawful deductions from wages therefore fails as being out of time.