



EMPLOYMENT TRIBUNALS

Claimant

Mr J Murtagh

v

Respondent

Magdalene Telecom Limited

(OPEN) PRELIMINARY HEARING

Heard at: Cambridge

On: 19 June 2018

Before: Employment Judge Ord

Appearances:

For the Claimant: Did not attend and was not represented.

For the Respondent: Mr C Priest, HR Director.

JUDGMENT

1. The Tribunal has no jurisdiction to hear the claimant's complaint which was presented out of time and the claim is dismissed.

REASONS

1. This matter came before me today to determine a preliminary issue of whether or not the claimant had brought his claim in time, and if not (the complaint being of unlawful deduction from wages) whether the claimant could satisfy the Tribunal that it was not reasonably practicable for him to present the claim in time.
2. The claimant's working arrangements with the respondent ended, on his case (which is agreed by the respondent) on 30 June 2017. The respondent denies that the claimant was either a worker or an employee, but that matter is not before me today.

3. The claimant had, under s.22 of the Employment Rights Act 1996, three months from the date of payment of wages from which the unlawful deduction was made (or if no payment was made from the date when that payment was due) to bring his complaint. Commencement of early conciliation through ACAS would have extended the time for the presentation of his claim.
4. The claimant did not commence early conciliation until 20 October 2017 by which time that primary limitation period of three months had already expired and therefore no extension given by the early conciliation rules would assist so that the claim could be brought in time.
5. The claimant has been aware of today's hearing since 2 April 2018. He has not submitted anything in writing to explain why it was not reasonably practicable for him to present his claim in time.
6. The claimant made a late application to postpone today's hearing or alternatively to transfer the hearing to a more convenient location for him. That was refused by the Regional Employment Judge on 18 June 2018.
7. For the reasons set out above, the claimant's complaint is presented out of time, the claimant has not satisfied the Tribunal that it was not reasonably practicable for him to present his claim in time, and accordingly the Tribunal has no jurisdiction to hear the claim which is dismissed.

Employment Judge Ord

Sent to the parties on:

.....25 July 2018.....

For the Tribunal:

.....25 July 2018.....