



EMPLOYMENT TRIBUNALS

Claimant: Mr S Basker

Respondent: QDos Recruits Limited

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

Heard at: Birmingham

On: 24 October 2019

Before: Employment Judge Kelly

Representation

Claimant: Mr Lockyer, lay representative

Respondent: In person

JUDGMENT

The judgment of the Tribunal is that:

The claimant's claim is dismissed as the Tribunal does not have jurisdiction to hear it.

Reasons

1. The claimant's claim for unlawful deduction from wages should have been started through the ACAS early conciliation process by 8 February 2019, the last deduction from wages having been made on 9 November 2018. The claimant's early conciliation certificate shows that the date of receipt by ACAS of the EC notification was 14 February 2019, that is, outside the primary time limit.
2. The tribunal has jurisdiction to allow the claim to be considered in these circumstances if it was not reasonably practicable for the claimant to present the claim in time and the claim was presented within such further period as the tribunal considers reasonable (s23(4) *Employment Rights Act 1996*).

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3. The claimant said that it was not reasonably practicable to present the claim in time because he was attempting to resolve it with the respondent direct. This was by way of informal correspondence and via ACAS, not through any formal internal process such as a grievance procedure.
4. We note that the “not reasonably practicable” provisions should be interpreted as meaning that it was not “reasonably feasible” for the claim to be presented in time (*Palmer and anor v Southend – on – Sea Borough Council 1984 ICR 372 CA*).
5. We consider that it was reasonably feasible for the claim to be presented in time in the context of the claimant having informal correspondence with the respondent direct and via ACAS. The claimant was in a position to have made an early conciliation notification to ACAS before the primary time limit expired.
6. Accordingly, the claim is dismissed.

on 24 October 2019
Employment Judge Kelly