**EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case no: 4107038/2019 (V)**

**Held via Cloud Video Platform on 27 August 2020**

**Employment Judge: W A Meiklejohn**

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| **Mrs Janette Milne** | **Claimant**<br>**Represented by:**<br>**Ms L Neil**<br>**Solicitor** |
| **Glasgow City Council** | **Respondent**<br>**Represented by:**<br>**Ms G Riddell -**<br>**Solicitor** |

**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

The Judgment of the Employment Tribunal is that the claimant's claim of unfair dismissal, although lodged out of time, may proceed to a final hearing.

**REASONS**

1. This case was listed for an open preliminary hearing, conducted remotely by video using the Cloud Video Platform ("CVP"). Ms Neil represented the claimant and Ms Riddell represented the respondent.

2. The issue to be decided at the preliminary hearing was time bar in relation to the claimant's complaint of unfair dismissal.

**Applicable statutory provisions**

3. Section 111 of the Employment Rights Act 1996 ("ERA") (**Complaints to employment tribunal**) provides, so far as relevant, as follows –

> "*(1) A complaint may be presented to an employment tribunal against an employer by any person that he was unfairly dismissed by the employer.*

*(2) Subject to the following provisions of this section, an employment tribunal shall not consider a complaint under this section unless it is presented to the tribunal –*

*(a) before the end of the period of three months beginning with the effective date of termination, or*

*(b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of three months.*

*(2A) ….section 207B (extension of time limits to facilitate conciliation before institution of proceedings) apply for the purposes of subsection (2)(a)."*

4. Section 207B ERA (**Extension of time limits to facilitate conciliation before institution of proceedings**) provides as follows –

*"(1) This section applies where this Act provides for it to apply for the purposes of a provision of this Act (a "relevant provision").*

*But it does not apply to a dispute that is (or so much of a dispute as is) a relevant dispute for the purposes of section 207A.*

*(2) In this section –*

*(a) Day A is the day on which the complainant or applicant concerned complies with the requirement in subsection (1) of section 18A of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and*

*(b) Day B is the day on which the complainant or applicant concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under subsection (11) of that section) the certificate issued under subsection (4) of that section.*

*(3) In working out when a time limit set by a relevant provision expires the period beginning with the day after Day A and ending with Day B is not to be counted.*

*(4) If a time limit set by a relevant provision would (if not extended by this subsection) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.*

*(5) Where an employment tribunal has power under this act to extend a time limit set by a relevant provision, the power is exercisable in relation to the time limit as extended by this section."*

5. Section 18A of the Employment Tribunals Act 1996 makes provision for a prospective claimant to provide prescribed information to ACAS in the prescribed manner before instituting relevant Employment Tribunal proceedings. It was not in dispute that the claimant had complied with section 18A so I will not set out the terms of that section here.

**Agreed timeline**

6. The following timeline was agreed at the start of the hearing –

(a) Date of start of employment – 24 November 2003

(b) Date of dismissal – 23 November 2018

(c) Day A – 20 February 2019

(d) Time limit under section 111(2) – 22 February 2019

(e) Day B – 20 March 2019

(f) Time limit under section 207B(4) – 20 April 2019

(g) ET1 lodged – 22 May 2019

**Evidence**

7. I heard evidence from the claimant. I had bundles of documents from both parties to which I refer by page number, prefixed by "C" in the case of the claimant and by "R" in the case of the respondent.

## Findings in fact

### *Claimant's dismissal and appeal*

8. The claimant was employed by the respondent as a home carer until her dismissal without notice following a disciplinary hearing on 23 November 2018. The notes of this hearing were R23-27. The notes confirmed that the claimant was offered a right of appeal (at R27). The claimant was accompanied at the disciplinary hearing by her Unison representative, Ms J Ralph.

9. Following the claimant's dismissal Ms Ralph, to whom the claimant referred as a colleague and friend, spoke to the claimant's daughter, Ms Pamela Milne, and told her about the claimant's right of appeal.

10. The respondent wrote to the claimant on 3 December 2018 confirming the outcome of the disciplinary hearing (R33-34). This letter mentioned the right of appeal.

11. The claimant submitted a letter of appeal dated 7 December 2018 (R29). This letter was prepared for the claimant by Ms Milne.

12. The appeal hearing, before the respondent's Personnel Appeals Committee, was originally scheduled for 6 March 2019 but was postponed by the respondent because (the claimant understood) one of the councillors who was due to participate lived in the same area as the claimant.

13. The appeal hearing took place on 30 April 2019. At the appeal hearing, the claimant was accompanied by Mr A Thomson of Unison. Ms Ralph was also in attendance. The claimant's appeal was unsuccessful. This was confirmed in the respondent's letter to the claimant of 30 April 2019 (R35).

### *Claimant's medical history*

14. The claimant was diagnosed as bipolar some seven years ago. At that time she suffered a psychotic episode and attempted suicide. She was hospitalised for four months. She was assigned a psychiatrist, Dr Yusuf, by whom she continues to be treated. She would consult Dr Yusuf when she felt ill, or unable to cope, or wanted her medication changed.

15. The claimant described her mental health issues as *"coming in waves".* When adversely affected, the claimant would not get out of bed and preferred to sleep. She would feel life was not worth living and want to die.

16. The claimant lives with her daughter, Ms Milne, and three grandchildren. Ms Milne is separated from her partner. When her mental health is poor, the claimant relies on Ms Milne for care and support. The claimant said that Ms Milne "*cooks, cleans, looks after me, helps me with everything"* at such times.

17. The claimant's mental health deteriorated after her dismissal. She described herself as being in "*deep depression".* Her GP records (C2-6) disclosed that she attended at Braidcraft Medical Centre on 19 December 2018 and was seen by Dr J Dickson. Dr Dickson's redacted note of this consultation reads as follows –

    "*Seen with **** - struggling with low mood. **** reports been smashing things in house, shouting at ****, currently living with ****. Feels no motivation, just wants to sleep. Lost job as left one day (*****). Feels no point. Thinks about driving car or drowning herself in bath, but would not due to children."*

18. Dr Dickson issued a fit note on 19 December 2018 confirming that the claimant was unfit for work until 2 February 2019 (C12). This referred to the following conditions –

    "*Low mood and anxiety – awaiting psychiatry review.*

    *Known bipolar disorder"*

19. Dr Dickson increased the claimant's dosage of duloxeline which is an anti-depressant medication. The note of the consultation also states "*consider Rossdale"* which was a reference to Rossdale Mental Health Resource Centre, Glasgow. Although thus expressed, the reference in the fit note to "*awaiting psychiatry review"* implied a referral for such a review.

20. The claimant consulted Dr Dickson again on 1 February 2019 and was issued with another fit note covering the period to 29 March 2019 (C10). The reasons were expressed in broadly the same terms as in the fit note issued on 19 December 2018.

21. The claimant consulted Dr Dickson once more on 29 March 2019 and was issued with a further fit note covering the period to 31 May 2019 (C9). The reasons were again expressed in similar terms as in the first fit note.

22. On 2 May 2019 the claimant attended at Braidcraft Medical Centre and saw Dr I Ilyas. His redacted note of this consultation states (so far as relating to the claimant's mental health) –

"*with her ****, known case of bipolar, was under psych until 2016, currently on duloxetine 60mg and quetiapine 50mg at night. Was seen in dec 18 and ? rereferred to rossdale but not heard anything <br&l; condition worsening, feeling more agitated, marriage broke recently, also lost her papa, and now living with her ****. Having flare ups of bipolar when sometimes mood really high and sometimes feels really depressed like last night when thinking about *****herself. Denies any ***** ideations now, no hallucinations, no delusions….to be referred to rossdale again…."*

23. I found that the claimant's bipolar disorder was a significant mental impairment which affected her ability to function normally throughout the period between shortly after her dismissal on 23 November 2018 and the date upon which her ET1 was lodged (22 May 2019). I say "*shortly after"* because the claimant's evidence did disclose exactly when her mental health deteriorated between her dismissal on 23 November 2018 and her first consultation with Dr Dickson on 19 December 2018.

24. For the sake of completeness, I should add that the claimant's GP records included an entry dated 31 May 2019 which disclosed that the records had stated her address as Raeswood Road rather than Raeswood Gate, and that Rossdale had sent a letter to the claimant about a missed appointment. This appeared to explain why the claimant had not heard from Rossdale following her first consultation with Dr Dickson on 19 December 2018.

***ACAS early conciliation***

25. The claimant's early conciliation ("EC") certificate (C1) recorded the date of receipt by ACAS of EC notification as 20 February 2019 and the date of issue by ACAS of the EC certificate by email as 20 March 2019.

26. The claimant said that it was her daughter who contacted ACAS on her behalf. When asked what had prompted this, the claimant said "*I think I showed her a letter and asked her to deal with it".* It appeared to be a matter of serendipity that the notification to ACAS occurred two days before the time limit under section 111(2).

***Claimant's knowledge***

27. Following her dismissal the claimant was unaware of how to start an Employment Tribunal claim and that there was a time limit for doing so. She had never been involved in Employment Tribunal proceedings. She did not know anyone who had been involved in Employment Tribunal proceedings. She had not read about Employment Tribunal proceedings in a newspaper. She did not have any means of internet access and did not use the internet. She said that her daughter *"does things online for me"* which I understood to be a reference to online shopping. The claimant did not know if her daughter had done any online research. The claimant had not contacted a Citizens Advice Bureau.

28. The claimant had not been advised by Mr Thomson or Ms Ralph about pursuing an Employment Tribunal claim. She had not been told about there being a time limit. She had not been told about EC. According to the claimant, when she told her trade union representatives about having an ACAS form in the house, Ms Ralph said that she did not know anything about that.

***Legal advice***

29. Following the claimant's unsuccessful appeal, Ms Milne telephoned McGrade and Co, Solicitors and spoke to Mr McGrade. The claimant was unable to state exactly when this occurred. She said that Mr McGrade had asked about contact with ACAS, and had told her daughter that the claimant had left it too late to pursue an Employment Tribunal claim.

30. After speaking to Mr McGrade, the claimant's daughter completed an Employment Tribunal ET1 claim form on her behalf and submitted this on 22 May 2019.

**Comments on evidence**

31. The claimant did her best to provide truthful answers to the questions put to her. However, her recollection of events was not good and on a number of occasions she gave evidence which she later contradicted. By way of examples –

    - The claimant initially said that it was Ms Ralph who submitted her letter of appeal against dismissal, later correcting this to say that it was her daughter who did so.

    - The claimant initially said that her sister had contacted ACAS, later correcting this to say that it was her daughter who did so.

    - The claimant initially said that her daughter had submitted her ET1 claim form, later stating that it was Mr McGrade who had done do, and finally reverting to the position that it was her daughter who had submitted the form.

32. The claimant said at one point in her evidence that it was "*all a blank after I lost my job".* It seemed to me that, on the balance of probability, the claimant's ability to recall events between 23 November 2018 and 22 May 2019 had been adversely affected by her mental health issues at that time. Notwithstanding that, I found the claimant's evidence about her ignorance of Employment Tribunals and time limits to be credible.

33. I was a little uncomfortable with the claimant's evidence that she had not been given any advice by her trade union representatives about pursuing an Employment Tribunal claim and there being a time limit. That was the type of advice I would have expected a trade union representative to give routinely. I was also surprised at the claimant's evidence of Ms Ralph's apparent ignorance of EC. However, when I pressed the claimant, she said that she was "*positively sure"* that she had been given no such advice by her trade union representatives and, on balance, I was prepared to accept this evidence.

**Submissions for claimant**

34. Ms Neil acknowledged that the burden of proof was on the claimant to show that it had not been reasonably practicable to present her unfair dismissal claim

within the time limit. She also acknowledged that ignorance of the right to claim, the time limit to do so and the procedure to follow was not sufficient – that ignorance had itself to be reasonable.

35. Ms Neil submitted that the evidence was clear in respect of the claimant's lack of knowledge. The fact that she had initiated EC within time was a matter of good fortune rather than knowledge. She was unaware that the section 207B time limit then applied. It had not been the claimant's fault that her appeal hearing originally scheduled for 6 March 2019 had been postponed.

36. Ms Neil relied on ***Marks & Spencer plc v Williams-Ryan [2005] EWCA Civ 470*** and referred to passages from the judgment –

(a) At paragraph 20 Lord Phillips, MR said –

"*The first principle is that section 111(2) should be given a liberal interpretation in favour of the employee. Lord Denning MR so held in Dedman v British Building & Engineering Appliances Ltd*."

(b) At paragraph 21 Lord Phillips, MR said –

"*In accordance with that approach it has repeatedly been held that, when deciding whether it was reasonably practicable for an employee to make a complaint to an employment tribunal, regard should be had to what, if anything, the employee knew about the right to complain to the employment tribunal and of the time limit for making such a complaint. Ignorance of either does not necessarily render it not reasonably practicable to bring a complaint in time. It is necessary to consider not merely what the employee knew, but what knowledge the employee should have had had he or she acted reasonably in all the circumstances."*

37. In ***Marks & Spencer*** there had been potentially misleading information provided by the employer to the employee relating to an internal appeal in which mention was made of the right to take a claim of unfair dismissal to a tribunal. It had been reasonable for the employee to await her appeal outcome. Her ignorance of the time limit was reasonable.

38. In the present case, Ms Neil submitted, the letter advising the claimant of her right of appeal referred only to the internal procedure and, the appeal having been postponed by the respondent, it had been reasonable of the claimant to await the outcome. Ms Neil also referred to the fact that the claimant had a mental health condition and relied on her daughter for internet access.

39. Ms Neil referred to ***John Lewis Partnership v Charman UKEAT/0079/11***. In that case the Employment Appeal Tribunal found that the Employment Tribunal had been right to find that it had not been reasonably practicable for the claimant to lodge his claim before the determination of an internal appeal and that he had done so within a reasonable period thereafter. The claimant in that case was young and inexperienced and, as in the present case, had no knowledge of Employment Tribunals and the deadline for submitting a claim.

40. In that case the state of mind of the claimant and his father who provided advice was found to be "*interchangeable".* Ms Neil said that this was not the position in the present case as between the claimant and her daughter. The claimant was reliant on her daughter but it was not reasonable to apportion any degree of responsibility to Ms Milne for the time limit being missed.

41. Ms Neil next referred to ***University Hospitals Bristol NHS Foundation Trust v Williams UKEAT/0291/12*** where the complaint of unfair dismissal was presented some eight months after the claimant's dismissal. The Employment Tribunal found that it had not been reasonably practicable for the claimant to present her complaint in time because of her mental health difficulties. In that case the claimant had managed to move house and change her child's school but was unable to cope with the additional burden of pursuing her Tribunal claim until she was "*sufficiently stable"* to do so.

42. In the present case there was no question of the claimant becoming "*sufficiently stable".* She had to rely on her daughter who had her own responsibilities. Her dismissal brought on a deep depression. Her medication was increased. She had severe symptoms including suicidal thoughts and low mood. She had difficulty with motivation. These difficulties subsisted throughout the period when time was running for the purpose of submitting a claim.

43. Ms Neil lastly referred to ***Norbert Dentressangle Logistics Ltd v Hutton UKEAT/0011/13***. In that case the claim was allowed to proceed despite being lodged six weeks late. The claimant said that he was unable to function properly and could not bring himself to submit his claim, despite being able to pursue a grievance and engage in detailed email correspondence. There was no medical evidence.

44. Ms Neil contrasted this with the present case. In the present case there was medical evidence. There were also excuses for the claim not being presented in time – the claimant's ignorance about Employment Tribunals and time limits, the absence of provision by the respondent of any information about Employment Tribunals, the claimant being dependent on her daughter due to her mental illness and her worsening mental health.

**Submissions for respondent**

45. Ms Riddell submitted that the claimant had failed to discharge the onus of showing that it had not been reasonably practicable for her to present her claim in time. She said that the Tribunal had to look at the entire period (ie from the date of dismissal until the expiry of the time limit) and ask why the claimant had not submitted her claim.

46. Ms Riddell referred to ***Wall's Meat Co Ltd v Khan [1979] ICR 52***. The claimant could only succeed in arguing ignorance of the time limit if that ignorance was itself reasonable. It would not be reasonable if the ignorance was due to the claimant not making enquiries or due to the fault of advisers.

47. Ms Riddell sensibly accepted that the claimant had been very unwell during the period when time was running for presentation of her claim but argued that there was no evidence as to why she could not have submitted it throughout that period. The claimant's evidence was that she had good and bad days. The Tribunal would have to decide if it had not been reasonably practicable for the claimant to present her claim for the whole of the relevant period.

48. Ms Riddell referred to the claimant's evidence that she has spoken to her trade union representative about EC. It was, Ms Riddell submitted, not credible that a trade union representative would not be aware of ACAS procedures.

49. Ms Riddell submitted that there had been no obligation on the respondent to provide information about Employment Tribunals to the claimant. It was not their policy to do so. The claimant's daughter had ample opportunity to enquire as to next steps should the claimant's appeal fail. She had internet access, had applied for EC and could do research.

50. Turning to the second branch of section 111(2), whether the claim had been presented within such further period as the Tribunal considered reasonable, Ms Riddell argued that it was not reasonable to allow the claimant a further one month and two days when she had contact with her trade union representatives at the appeal hearing. Ms Riddell also observed that the ET1 expressed the claim in very brief terms.

**Discussion and disposal**

51. I reminded myself of the terms of section 111(2) ERA. I had to be satisfied that it was not reasonably practicable for the claimant to have presented her claim in time and that she had presented it within such further period as I considered reasonable. The burden of proof was on the claimant. If I was to exercise the power to extend time, I had to do so in relation to the time limit as extended by section 207B ERA. As set out in the agreed timeline above, that time limit was 20 April 2019.

52. I also reminded myself of what Lord Scarman said in ***Dedman v British Building & Engineering Appliances Ltd [1974] ICR 53*** – where a claimant pleads ignorance as to his or her rights, the Tribunal must ask further questions –

> "*What were his opportunities for finding out that he had rights? Did he take them? If not, why not? Was he misled or deceived?"*

53. In ***Porter v Bandridge [1978] ICR 943*** the majority of the Court of Appeal ruled that the correct test was not whether the claimant knew of his or her rights but whether he or she ought to have known of them.

54. The meaning of "*reasonably practicable"* was considered by the Court of Appeal in ***Palmer v Southend-on-Sea Borough Council [1984] ICR 372***. The Court

held that "*reasonably practicable"* did not mean reasonable, which would be too favourable to employees, and did not mean physically possible, which would be too favourable to employers, but meant something like "*reasonably feasible".*

55. In ***Asda Stores Ltd v Kauser EAT/0165/07*** Lady Smith explained "*reasonably practicable"* in these terms –

"*the relevant test is not simply a matter of looking at what was possible but to ask whether, on the facts of the case as found, it was reasonable to expect that which was possible to have been done".*

56. I considered the reasons or excuses advanced on behalf of the claimant for not submitting her ET1 claim form within the time limit. The first of these was her ignorance about Employment Tribunals and time limits. As recorded at paragraph 26 above, I was satisfied that the claimant was ignorant of these matters.

57. The second was lack of information about Employment Tribunals. While in ***Marks & Spencer*** there had been a reference to the right to take a claim of unfair dismissal to an Employment Tribunal, I agreed with Ms Riddell that the respondent had been under no obligation to provide such information to the claimant. I found it surprising that the claimant had not been advised about her right to bring a claim of unfair dismissal and the existence of the time limit by her trade union representatives (see paragraph 32 above) but I accepted the claimant's evidence on this point. However, I understood this reason or excuse was effectively an assertion that the respondent should have told the claimant about her right to go to an Employment Tribunal and I did not accept that.

58. The third was the claimant's dependence on her daughter due to her mental illness. The claimant herself did not use the internet and would not have been able to carry out any online research. Being ignorant about Employment Tribunals and time limits, the claimant was not in a position to ask her daughter to carry out such research. I was sympathetic to the argument advanced by Ms Neil that it would not be reasonable to apportion any degree of responsibility to the claimant's daughter for the time limit being missed. I had no evidence about

Ms Milne's state of knowledge about Employment Tribunals and time limits and did not consider it appropriate to speculate about that.

59. The final reason or excuse advanced was the claimant's worsening mental health. This was supported by the medical evidence, in particular the note of the claimant's consultation with Dr Dickson on 19 December 2018 (see paragraph 17 above) and the facts that Dr Dickson (a) increased the claimant's medication and (b) by necessary implication (see paragraph 18 above) referred her for psychiatric review.

60. It was apparent that the claimant relied on her daughter to deal with matters relating to her dismissal. It was Ms Milne to whom Ms Ralph spoke about the claimant's right of appeal. It was Ms Milne who drafted the appeal letter. It was Ms Milne who contacted ACAS. It was Ms Milne who sought legal advice after the claimant's appeal was unsuccessful. I was satisfied that Ms Milne did these things because the claimant was not herself able to do so by reason of her mental health.

61. I next considered whether it was reasonable for the claimant to rely on the reasons or excuses which were advanced. It seemed to me that the reasons or excuses were intertwined. The claimant was unaware of Employment Tribunals and their time limits. Her mental health and lack of computer literacy prevented her from taking action to become aware. Her worsening mental health compounded the difficulty the claimant faced in addressing matters.

62. Referring back to the questions posed by Lord Scarman in ***Dedman***, I was satisfied that the claimant did not have an opportunity to find out that she had rights during the period between her date of dismissal and the expiry of the time limit for presenting a claim of unfair dismissal. This was the result of her ignorance about Employment Tribunals and their time limits and her inability because of her lack of computer literacy and mental health to do anything about that ignorance. That meant that Lord Scarman's follow up questions did not apply in this case. Turning to his last question – was the claimant misled or deceived – I considered that this did not apply in this case.

63. I came to the view that it had been reasonable for the claimant to rely upon the reasons or excuses advanced on her behalf, with the exception of the allegation that the respondent had failed to provide her with information about her right to go to an Employment Tribunal.

64. While it might be said that most people would have some knowledge of Employment Tribunals, the claimant's evidence about her own state of knowledge – and that was what was relevant in this case – was credible. I accepted that she did not know about Employment Tribunals and time limits. Neither she nor anyone she knew had been involved in Employment Tribunal proceedings. She had not read about Employment Tribunal proceedings in the press. She said in this context that she was "*always too busy".*

65. I considered that the claimant's mental health had a significant impact on her ability to progress an Employment Tribunal claim. Her fit notes confirmed that her impaired mental state continued from the time of her first consultation with Dr Dickson on 19 December 2018 until after the time limit for presenting a complaint of unfair dismissal had expired on 20 April 2019. It was also in my view reasonable to assume that the claimant's mental health had deteriorated in the days or weeks leading up to that first consultation. The reference in Dr Dickson's note to "*lost job"* suggests that this event might have triggered that deterioration. Accordingly, I was satisfied that the claimant, who was already diagnosed as bipolar, suffered impaired mental health between the date of her dismissal on 23 November 2018 and the expiry of the time limit for presenting an Employment Tribunal claim on 20 April 2019.

66. The claimant's state of knowledge did not change in the period when time was running (for the purpose of presenting a complaint of unfair dismissal timeously) and so I did not consider that there was anything to be gained in this case by particular focus on the end of that period. Similarly, the claimant's mental health did not improve but deteriorated during that period. I considered the question of whether the claimant ought to have known of her right to present an Employment Tribunal claim and the time limit for doing so, and came to the view that the question should be answered in the claimant's favour. There was no

blame attaching to the claimant for her own ignorance or mental health difficulties.

67. I lastly addressed the issue of whether the claim had been presented within such further period as I considered reasonable. I believed that the unsuccessful outcome of the claimant's appeal against dismissal had been the catalyst for the claimant, through her daughter, to seek legal advice. I had no information as to the exact date upon which Ms Milne spoke to Mr McGrade but clearly it was after 30 April 2019.

68. Only when Ms Milne spoke to Mr McGrade did the claimant become aware of the existence of the time limit to present a complaint of unfair dismissal. The delay, if reckoned from the point in time when the claimant became aware of the time limit, was therefore less than one month and two days as contended by Ms Riddell. I decided that the delay was not unreasonable.

69. The claimant and her daughter upon whom she relied were in unfamiliar territory. While the claimant had spoken with the trade union representatives on 30 April 2019, I accepted her evidence that she had not been told about pursuing an Employment Tribunal claim, nor the time limit for doing so (see paragraph 27 above).

70. Accordingly, I decided that the claimant's claim of unfair dismissal had been presented within such further period as was reasonable, and could proceed to a final hearing.

**Next steps**

71. In their ET3 response form, the respondent resisted the claim only on time bar. They indicated that they would seek to lodge further and better particulars providing a substantive response to the claim if it was allowed to proceed.

72. As I have decided that the claim may proceed, the respondent should provide their substantive response now. **I direct that they should do so within 28 days of the date upon which this Judgment is sent to the parties.**

73. The case will then proceed to a final hearing. Date listing letters will be issued so that the parties can provide details of their availability and proposed

witnesses. The parties should at the same time indicate whether they are happy for the final hearing to be conducted by CVP. An Employment Judge will then issue appropriate Orders covering preparation for and conduct of the final hearing.

Employment Judge: W A Meiklejohn
Date of Judgement: 02 Sept 2020
Entered in register: 08 Sept 2020
and copied to parties