

Timeliness is next to Godliness – or it is when submitting Tribunal claims..?

The Court of Appeal has held that an Employment Tribunal claim presented 88 seconds beyond the time deadline would not be permitted to proceed, and was out of time.

The normal time limit for presenting an unfair dismissal claim to the Employment Tribunal is three months from the effective date of termination. As such, an employee dismissed on 15th September will ordinarily have until 14th December to lodge a claim. That time limit can be extended by a further three months in certain circumstances. For example, where upon the expiry of the original three month time limit the employee has reasonable grounds for believing that a dismissal or disciplinary procedure is still being followed.

An extension may otherwise only be granted to the time limit where the Employment Tribunal finds that "it was not reasonably practicable for the complaint to be presented before the end of the three month period from the effective date of dismissal". This is quite a high hurdle for a tardy claimant to clear.

The Court of Appeal has recently considered the time limit issue in the case of *Beasley v National Grid*. In this case Mr Beasley wished to lodge his claim on-line. Mr Beasley's employment terminated on 7th February 2006 and as such he had until midnight on 6th May 2006 to lodge his claim.

Mr Beasley spent much of 6th May drafting his claim, presumably planning on lodging it well ahead of the midnight deadline. However, owing to technical difficulties he in fact only submitted the claim form at 23:44 that day. Unfortunately the claim form was sent to the wrong email address and a rejection message was received at 23:45. The claim form was then re-sent at exactly midnight, but was not received by the Employment Tribunal until 00:01:28 the next day, some 88 seconds late.

Mr Beasley was refused permission to bring his claim in the Employment Tribunal on the basis that it had no jurisdiction to hear it. Mr Beasley then appealed first to the Employment Appeals Tribunal, and then to the Court of Appeal.

However, the Court of Appeal refused to hear the appeal on the basis that it had no real prospect of success. Whilst harsh for Mr Beasley, the Court of Appeal felt bound by the statutory time limit. The fact was the three month time limit was clearly expressed, and the 'not reasonably practicable' basis for an extension would only be granted in very limited cases.

Points to consider

Compliance with time limits is an essential part of undertaking Employment Tribunal proceedings with respect to both Claimants and Respondents.

Whilst some time limits are clear, there can often be confusion over whether the raising of a grievance will extend a time limit or where a dismissal process is ongoing. Parties to Employment Tribunal proceedings should satisfy themselves that they have a proper understanding of when time limits expire.

Once a party has clarity over when the time limit will expire, it is important to make at least one diary note as a reminder of the expiry date. An employee may have a dead-cert claim, or any employer may have a cast iron defence, but neither will be of any value if the Employment Tribunal has no jurisdiction to hear them.

t: + 44 (0) 118 9001880

f: + 44 (0) 118 900 1881

w: www.mpmlegal.co.uk

e: info@mpmlegal.co.uk