



EMPLOYMENT TRIBUNALS

Claimant: Mr A Corless

Respondents: 1. Gordon MacLean
2. Word of Mouth Construction Limited

JUDGMENT

The claim is struck out.

REASONS

1. Under rule 37 of the Employment Tribunal Rules of Procedure 2013, a tribunal can strike out a claim on the ground that it has no reasonable prospect of success.
2. This is a complaint of unlawful deduction from wages and holiday pay.
3. Tribunals cannot consider complaints of unlawful deduction from wages unless they are presented within three months of the date of the last deduction in the series. Where employment has ended, the last deduction will usually occur on the next pay date after termination of employment. In this case, the claimant was paid weekly, which suggests that his final pay date would have been no more than a week after his employment ended. There is nothing on the file to suggest that the last pay date could have been any later than that.
4. Taking the last possible date of the deduction to be 26 April 2019, the last day for contacting ACAS or presenting his claim would have been 25 July 2019. As it was, the claimant did not give his details to ACAS until 8 August 2019 and did not present his claim until 9 August 2019.
5. The time limit can be extended, but only if it was not reasonably practicable to present the claim in time. The onus is on him to demonstrate that he could

not reasonably feasibly have contacted ACAS or presented his claim by 25 July 2019.

6. On 27 November 2019 the tribunal sent the claimant a clearly-headed strike-out warning. The claimant was given an opportunity to make representations as to why the claim should not be struck out. He was also given the opportunity to request a hearing at which the question of striking out could be determined.
7. In a separate letter, also sent to the parties on 27 November 2019, the claimant was reminded to address the point about time limits. The letter concluded, "He should explain why it was not reasonably practicable to present his claim by the 3-month deadline".
8. The claimant has not asked for a hearing or made written representations. He has not provided any explanation for the delay in presenting his claim.
9. In these circumstances there is no reasonable prospect of the claimant successfully obtaining an extension of the time limit. Without an extension of time the tribunal will not have the legal power to consider the claim. The claim is therefore struck out.

Employment Judge Horne

27 January 2020

SENT TO THE PARTIES ON

4 February 2020

FOR THE TRIBUNAL OFFICE