

Court of Appeal rules that an appeal submitted out of time should be allowed to be heard

Court of Appeal ('CA') has recently permitted an application for an extension of time to submit an appeal with the Employment Appeal Tribunal ('EAT') because it was in the interests of justice to do so.

28 January 2019

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The Claimant's notice of appeal was submitted by email five minutes before the deadline for submitting the appeal. The Claimant had attached a file which exceeded the maximum size limit allowed by the Employment Appeal Tribunal's ('EAT') server. Ordinarily, parties are provided with documentation which offers guidance on submitting an appeal. The Claimant had not, however, been provided with this document and so was not aware of attachment size limitations.

The Claimant later re-sent the attachment, within the size limitation, albeit after the appeal deadline. The CA commented that it was reasonable for an uninformed person to expect that a single email containing all attachments would be accepted. As the Claimant had not received the guidance documentation, the Claimant should not have been criticised for not knowing of attachment size limitations.

Although appellants are advised not to leave the filing of an appeal to the last minute (and usually have to bear the consequences if they are then late), this finding departs from that norm on the grounds of it being in the interests of justice to do so. Had the Claimant been provided with the guidance documentation, a different decision may well have been reached.

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