

A PRACTICAL VIEW FROM TRIBUNAL

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In a regular feature, *A practical view from tribunal*, members of *Littleton Chambers* and *Devereux Chambers* share practical guidance from their recent experiences in the employment tribunal.

Practical Law Employment

DROPBOX: AN ACCEPTABLE METHOD OF SERVING DOCUMENTS ON THE EAT? (CHRIS STONE, OCTOBER 2015)

How can an appeal be lodged by email to the EAT if the attachments exceed the email size limit the EAT will accept? Will an appeal be properly constituted if a link is provided to a Dropbox location where the required attachments can be accessed?

On 25 September 2015, I was involved in a case where the EAT decided these issues for the first time.

Practitioners will be aware of the notoriously strict approach that the EAT takes to breaches of its time limits and the requirement for service of all necessary documents. Within the prescribed period (e.g. 42 days from the date a reserved ET judgment is sent to the parties) the Appellant must serve not only the Notice of Appeal, but also copies of the ET1, ET3 and the judgment being appealed (see Rule 3 of the EAT Rules 1993 and [Rule 5 \(www.practicallaw.com/4-382-0160\)](http://www.practicallaw.com/4-382-0160) of the EAT Practice Direction 2013). The discretion to extend time if an appeal is not properly instituted is applied sparingly (see the cases cited in Rules 5.6 and 5.7 of the EAT Practice Direction).

In *Majekodumni v City Facilities Management UK Ltd UKEAT/0157/15* (as yet, unreported), the Appellant served the Notice of Appeal and judgment in time. He also sent an email, in time, containing a link to the ET1 and ET3 stored in a Dropbox location. EAT staff responded the same day stating that the EAT did not accept documents accessed via links to external locations and asked for them to be re-sent as attachments; they were re-sent, but after the 42 day period had expired.

The use of the Dropbox location was prompted by the email size limit of 10MB which the EAT will accept. This can require multiple emails to institute an appeal. Nevertheless, the EAT upheld the Registrar's decision that service by providing a Dropbox link (and the same would be true of any Cloud storage location) was not permitted by the EAT's guidance and did not constitute valid service. That guidance is contained in the EAT's leaflet *T440* (<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/t440-eng.pdf>), which sets out the file formats it will accept as attachments (which includes .zip files), but stresses that all documents must be attached and not sent as links.

Given the consequences of failing to properly institute an appeal, practitioners would be well served by reminding themselves of this guidance document.

Recognising the practical difficulties associated with the current position, Judge Eady QC did hint that the EAT may wish to reconsider accepting documents accessed in Cloud storage locations. However, convenience for practitioners will have to be balanced against obvious security concerns for the EAT. For now, for those wishing to institute an appeal by email, the only option is to use zip files to reduce overall email size and then send as many emails as required.

Chris Stone, Devereux Chambers, October 2015.

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