



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss J Harris

**Respondent:** Dermalogica UK Limited

**Heard at:** LONDON SOUTH      **On:** 26 July 2017

**Before:** Employment Judge Siddall

## **Representation**

Claimant: In person

Respondent: Mr M Bell, Solicitor

# JUDGMENT

The claim for unfair dismissal is brought out of time and cannot proceed.

# REASONS

Section 111(2) of the Employment Rights Act states that a complaint for unfair dismissal cannot be brought unless it is presented to the tribunal within three months of the effective date of termination, or 'within such period as the tribunal considers reasonable in a case where it is satisfied that that it was not reasonably practicable for the complaint to be presented before the end of the period of three months.

The Claimant was given notice of dismissal on grounds of redundancy on 25 August 2016 and her last day of employment was 4 November 2016. During the notice period she was busy planning her wedding which took place in October, and sorting out her visa which was resolved by 23 November 2016. She then lodged an appeal on 4 November and made a data subject access request. The request was responded to in early February, but it was not until 9 March that the Claimant contacted ACAS and initiated the early conciliation procedure, by which time the initial three month time limit had already passed. The tribunal claim for unfair dismissal was lodged on 5 April 2017.

In her email containing her appeal, the Claimant stated that 'I have sought legal advice from an employment lawyer' and that '..I would prefer to not have to go

down the legal route and bring a claim for unfair dismissal'. She stated in evidence that she had sought assistance from a friend who was a Global HR director, who had in turn sought advice from her company's lawyers.

The Claimant said in evidence that over the period in question she had prioritised other matters. She had not felt confident about bringing a claim and was out of her 'comfort zone'. Later she had focussed on finding another job. She had become depressed, although did not produce any medical evidence.

I find that the Claimant was therefore fully aware of her right to bring a claim for unfair dismissal in November 2016. It is inconceivable that such advice would not have included advice about time limits, given the position of the person from whom assistance was sought; whom the Claimant said had helped her throughout including the discussions with ACAS. Whilst the Claimant may have felt very low, and was uncomfortable about bringing a claim, it is also clear that she chose to focus on other matters and sadly, left it too late to bring a claim. There were no good reasons advanced as to why the claim could not have been brought in time, given the specialist level of support that the Claimant was receiving.

I therefore find that it was reasonably practicable for the Claimant to have brought her claim within the initial three month time limit

Employment Judge Siddall

Date 26 July 2017