



## EMPLOYMENT TRIBUNALS

**Claimant:** Ms Jacolyn Webster

**Respondent:** Wiggle Limited

**Heard at:** Southampton                      **On:** 9 November 2018

**Before:** Employment Judge Jones QC

**Representation:**

**Claimant:** In person

**Respondent:** Mr S Wyeth of Counsel

## JUDGMENT

1. The Claimant's claim for unfair dismissal was submitted out of time.
2. It was reasonably practicable for the claim to have been commenced in time.
3. The claim is dismissed.

## REASONS

1. The Claimant was formerly employed by the Respondent as a management accountant. Her employment terminated on 9 February 2018. The reason for the termination was redundancy.
2. The Claimant set about performing research. Her research was a combination of searching on the internet and discussing her position with friends and family including her mother-in-law, who is an experienced HR professional. She produced a letter contesting the fairness of her dismissal which was so clear and which used terminology so appropriately that the Respondent suggested that it must have been the product of specialist advice. I find that it was not. The Claimant was impressive in

her presentation of her case and I have no doubt that she was perfectly capable of producing the letter without specialist advice.

3. She told me that she was aware of the existence of ACAS and of the possibility of tribunal proceedings before the 9 May 2018. She was not, she said, aware of the existence of a time limit for unfair dismissal claims. She accepted that, had she wished to pursue the possibility of formal action, she could have found out about the time limit at an earlier stage. She told me, and I accept, that she put such thoughts to one side and instead pursued what appeared to her to be the promising avenue of an internal appeal. That is critical. There is no suggestion on her part that the existence of a time limit was information that she could not have obtained had she looked. She, instead, took an understandable decision to focus her efforts elsewhere.
4. The question I have to answer is whether it was reasonably practicable to have commenced in time (see **Employment Rights Act 1996, s. 111(2)**). The short answer is that it clearly was. The Claimant chose, as she put it, a different path. In the circumstances, whilst her ignorance of the time limit is explicable it is not, in my view, reasonable.
5. She was told on 3 May 2018 that a decision had been reached in relation to her appeal. However, the decision-maker, Mr Nicholas Pink, wanted to talk her through the decision and did not do so until 9 May 2018. It was only at that point, one day out of time, that it seemed to the Claimant that she was going to have to pursue the matter by means of proceedings and that the possibility of a time limit occurred to her. Ms Gonsalves, the Respondent's HR Director, accepted that the process could have been handled better but repudiated any suggestion that there was a deliberate attempt to run down the clock. I do not have the evidence that would allow me to reach that conclusion and, in any, event, I do not consider that the question is ultimately relevant. Had the Claimant decided to take the course of focussing entirely on the appeal, no delay on the Respondent's part could have made any difference.

Employment Judge Jones QC

9 November 2018