



EMPLOYMENT TRIBUNALS

Claimant

Mr A Adradi

v

Respondent

Nouvita Psycare

Heard at: Huntingdon

On: 16 August 2018

Before: Employment Judge Cassel

Appearances:

For the Claimant: Mr P Bell, McKenzie friend.

For the Respondent: Mr Williams, Counsel.

JUDGMENT

The tribunal has no jurisdiction to hear the claim for interim relief.

REASONS

1. In his claim to the tribunal, the claimant, Mr Ahmed Adradi, claims unfair dismissal under the provisions of section 103A of the Employment Rights Act 1996 – protected disclosure. In the claim form that was received by the tribunal on 5 June 2018, at paragraph 2.3 there is an application for interim relief.
2. The claimant attended tribunal today and was accompanied by his McKenzie friend, Mr P Bell. Mr Williams of Counsel, represented the respondent.
3. I took particular care to explain to the claimant the provisions of rule 95 of the Employment Tribunal Rules, and the procedure that I would adopt in considering his claim for interim relief.
4. Similarly, I dealt at some length the provisions of section 128 and 129 of the Employment Rights Act 1996. In particular, I explained the provisions of section 128(2) which is in the following terms, *“The tribunal shall not entertain an application for interim relief unless it is presented to the tribunal before the end of the period of seven days immediately following the effective date of termination, (whether before, on, or after that date).”*

Preliminary issue

5. Mr Williams submitted that the tribunal has no jurisdiction to consider the application for interim relief. As of 5 June 2018, more than seven days had elapsed from the effective date of termination. In particular, he drew my attention to three documents. The first was at pages 30 to 31 of the respondent's bundle, which is a note of a probation assessment meeting that took place on 24 May 2018. At page 30, the minute that was recorded, noted that Mr Gull Hassan stated that the company, *"Has decided to terminate your (the claimant) employment with immediate effect."*
6. I was also shown a letter at the respondent's bundle of page 32, in which the registered home manager wrote, on 29 May to the claimant that, *"You have been given one week's notice of the termination of your employment with the company and in line with the provisions of your contract of employment, you will receive payment in lieu of one week's notice."* That in itself was ambiguous and it was conceded on its own it might not have led to any particular conclusion. Mr Williams however, invited me to consider that document in the light of a third and final document produced at page 57 of the claimant's bundle which was in the following terms. At a meeting to hear the appeal, the claimant had stated, *"I wanted to hand in my notice and was leaving, at this point GH said that my employment was terminated with immediate effect and I was asked to leave the premises."* There was a further question to which the claimant responded, *"Yes because if I was terminated then there was no point."* In summary, Mr Williams submitted that the effective date of termination, was indeed 24 May 2018.
7. I asked the claimant to comment on the submission and, following representations, I made further enquiries and was told by Mr Williams that the three respondent witnesses who were at the appeal meeting, were present in tribunal and ready and willing and able to give evidence, and would likely confirm the note taken on 19 June at the appeal meeting and two of the respondent witnesses were available to confirm the dismissal on the assessment meeting of 24 May 2018.
8. Having canvassed the matter further with the claimant, I explained to him that if there was any doubt as to the date of termination, I would direct that evidence be taken on this point under the provisions of rule 95.
9. I put the matter back for the claimant to confer with his McKenzie friend and when the case was recalled, the claimant accepted that he had been summarily dismissed on 24 May, but questioned whether Mr Gull Hassan had the authority to dismiss him.
10. Mr Williams took further instructions and indicated that if evidence was taken, Mr Hassan would confirm that he had the authority to dismiss the claimant.
11. The claimant conceded this point as well and accepted that the tribunal has no jurisdiction to hear the application for interim relief.

Conclusion

- 12. I find that the tribunal has no jurisdiction to hear the application for interim relief. I find that Mr Gull Hassan had actual or ostensible authority to dismiss the claimant on 24 May 2018 and did so using unambiguous and unequivocal language, telling the claimant that, *“You are dismissed with immediate effect.”*

- 13. The claim form was received on 5 June 2018, and under the provision of section 128(2), was received in excess of the seven days specified within that sub section and therefore outside of the time limit specified in statute.

Employment Judge Cassel

Date:26.09.18.....

Judgment sent to the parties on
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For the Tribunal office