



EMPLOYMENT TRIBUNALS

Claimant: Fiona Shaw

Respondent: Planit Intelligent Environment LLP

Heard at: Manchester

On: 18, 19, 20 September
2018

Before: Employment Judge Feeney

REPRESENTATION:

Claimant: In person

Respondent: Mr E Lister, Managing Director

JUDGMENT

The judgment of the Tribunal is that:

The claimant's claim of unfair constructive dismissal succeeds.

REASONS

Pre-Amble

1. The claimant brings a claim of unfair constructive dismissal following her resignation from the respondent on 1 December 2017.

The Issues

2. Was the claimant dismissed i.e. was there a fundamental breach of the contract of employment. In particular in relation to:-

- (i) The implied term of trust and confidence; i.e. did the respondent without reasonable and proper cause conduct itself in a manner

calculated or likely to destroy or seriously damage the relationship of trust and confidence between it and the claimant.

- (ii) The implied term to resolve a grievance;
- (iii) The implied term to provide a safe working environment

3. Did the claimant resign in response to the respondent's conduct? Was the conduct an effective cause of the claimant's resignation even if it was not the sole cause.

4. The conduct the claimant relies on as breaching the trust and confidence term is broadly:-

- (i) The respondent's failure to properly resolve the situation in relation to HD.
- (ii) The respondent's failure to properly resolve the situation with NB
- (iii) The respondent's failure to take proper steps to respond to the claimant's sickness absence and ongoing health situation.

Witnesses

5. The claimant gave evidence for herself and for the respondents Mr Richard Lister gave evidence. There was an agreed bundle although there were pages missing from the bundle, one of which was provided.

Credibility

6. I find the claimant a much more credible witness than the respondent. The claimant was focused, forensic and accurate. She answered succinctly and without evasion all the questions asked of her. The respondent's witness Mr Lister was at times speechless, unable to articulate a cogent answer and evasive. He admitted he had not drafted the witness statement himself but had been helped by PS another partner. He was underprepared and had few cross-examination questions preferring to make statements about how caring the respondent was. He had provided the investigation into the claimant's grievance with inaccurate answers. For the reasons given below I do not accept this was a memory lapse. Accordingly, I preferred the claimant's evidence.

Tribunal's Findings of Fact

7. The claimant began working for the respondent on 10 June 2017 as a Bookkeeper. It was not disputed that she had a great relationship with other members of staff and made friends there over the years. Neither was there any question that she received great feedback and positive comments on her performance. The claimant's role expanded over the years and she undertook tasks such as loading and unloading the dishwasher, sweeping the leaves up, tidying the car park, preparing the office generally for the day, picking up litter.

8. The claimant shared an office with an External Accountant HD. She had a good relationship with HD but things changed in 2015 when a new Principal joined the company namely NB.

Issues with NB

9. NB joined in charge of business management dealing with marketing and advertising of the company. The claimant had no preconceived ideas about her but from the first meeting she felt she was hostile, she said that NB looked her up and down and commented "you must be Fiona". I questioned the claimant on whether this was an overreaction to the situation as there was not necessarily anything wrong with that interchange, however the claimant was adamant that NB's tone was not friendly and she was shocked at the relationship starting off in this way. The claimant said that there were many issues with NB bullying her however she had not put all of them in her witness statement and therefore I can only rely on the ones to which she referred.

10. The first issue for the claimant with NB was that she wanted to employ a Receptionist and LA was recruited. This meant that many of the tasks that the claimant had been doing were removed from her. The claimant in submissions sought to rely on this as a breach of the implied term regarding her job responsibilities however at the time she did not complain about this and it had not been referred to when the issues had been agreed. Neither had the claimant's job description been altered to include the jobs LA would take over.

11. LA was appointed by 24 June 2016, there was then an issue on 24 June resulting in the claimant sending, what I put to her as quite a harsh memo, to NB. The claimant said she was trying to protect LA from the treatment she had suffered. The email said "just to clarify that the reason Laura was in the kitchen as long this morning is because she was having breakfast this morning (my suggestion) and which she is entitled to do and as many other people in the office often do, I thought it was nice that VP had included her and she was getting to know people which is also nice. I have often been left out of things (especially with urban design) and know how hurtful it can be so I would not stand in the way of this. I don't think it's very fair to question her on what she is doing in the kitchen and how long she has been there, she knows that client drinks take priority and did deal and was dealing with those, she is not chained to her desk with time restraints and if she has to attend to things in the kitchen etc she should be able to do without worrying about if someone is wondering where she is. There are two people available now, her and myself so if she is in the kitchen and unable to hear the door buzzing I can still hear it from my desk and I will answer it. I don't think it's nice to make her feel awkward in her first week and I would certainly have felt awkward if you did this to me. I don't have a problem with anything she is doing and if I did I would speak to her myself and she is still getting used to everything here about how we work and what needs to be done. Laura has not mentioned anything so don't please think it was her. I asked her because I had the feeling you had said something, I know you did about the dishwasher already and I have seen you doing things in the kitchen like tidying etc. Apparently, this is a company where everybody pitches in and even Ed who

owns the company doesn't think it is beneath him to sweep the cage or pick up litter and we are in an office that feels like a family and personally would like Laura to feel that way, especially in her first week. I am happy to help and it will reassure her to know I would and I wouldn't expect anyone to do anything I wouldn't do myself".

12. The situation appears quite a minor one. The claimant may well have been over sensitive to it due to her treatment by NB but the claimant did not actually explain the treatment prior to 2016 she had from NB. NB's point was that she was expecting LA back with drinks for clients and then she didn't come back, that seemed a reasonable expectation. The issue regarding the dishwasher again was quite trivial about whether plates should go in the bottom or not and NB thought they shouldn't. Again, it's possible NB thought she was being helpful whereas the claimant saw it as overtly bossy. However, it could also be seen as the claimant trying to exert control over NB. Objectively the claimant's email was inappropriate.

13. NB replied "your message has come as a complete surprise I had absolutely no problem with Laura having breakfast, I came down to make drinks and was happy to do so, as she had offered and then hadn't reappeared I thought she had got tied up doing something else and I hadn't twigged she was in the kitchen, I let her know about the plates not going in the dishwasher in the bottom as they catch on the arm of the dishwasher but let everyone know that, hope there isn't a problem here. "

14. The claimant responded, "I think there has been a bit of a misunderstanding here it would be good to catch up for five minutes on Monday hope you have a good weekend". Accordingly, this matter seemed to have been resolved but the claimant sending an email about this matter and the tone of the claimant's email was a disturbing. As she says, she was trying to set a marker at the beginning of LA's employment so that NB would not bully her.

15. RL another partner had been copied in and he replied to the claimant "I second NB's suggestion can you both have five minutes on Monday in private to clear this up, it is probably a misunderstanding, I am not a big fan of sending out emails like this on a Friday night and people stewing on it over the weekend. Like you rightly say plan it as a family where everyone pitches in and treats each other with respect and I would like us all to draw a line under this and move on with no harm done" and the claimant agreed that was the best way of dealing with it.

16.

17. In relation to NB another issue was the fact that the claimant and LA were covering the phones between them and it was perceived that they were going on lunch at the same time even if not for the full hour. That this was causing problems was raised with them and NB told them that they were to go at 12 o'clock and 1 o'clock whether the other person had got back from the 12 o'clock lunch or not. However, later it was brought up by RL, it turned out NB's prompting that they shouldn't do this and they should wait for the other one to come back.

18. The claimant's perception of this was that NB was looking for things to complain about and in fact had set up a situation here where she had told them to do one thing, and then was criticising them to the directors for doing what she had told them to do.

19. The claimant was also concerned that she was told that she was not answering the telephone correctly. Mr Lister explained that he wanted people to answer the phone in the same way throughout the whole of the business and wanted them to say Planit i.e. Good morning how can I help you. He was entitled as a Director to require this. This greeting was not quite what the claimant was saying however it was difficult to discern any real difference. In the respondent's mind the fact that the claimant complained about this was a sign that she was resistant to change.

20. In Christmas 2016 NB challenged the claimant that she had turned everyone against her and that none of the staff would talk to her. The claimant said that she was very strident and angry. The claimant denied she had done this and said she did not talk about her behind her back. The claimant told her she was not to talk about her to anyone which the claimant felt was demonstrating a desire to highly control her which she perceived as bullying. On another occasion NB had told her to speak to her if she had issues with her and not to raise issues about NB with the partners, again the claimant felt this was a form of bullying. Later the claimant would discover that NB was complaining about the claimant most Monday mornings in the partner's meetings although she was not aware of this at the time.

21. During the Christmas conversation they agreed that they were very different people, that NB was a cold person and she was never going to be "warm and fluffy like the claimant. The claimant said that they could still work together, be polite and just stay away from each other otherwise and accept they would never be friends. MB then said that her comment was unfair because she was friends with people from all walks of life which the claimant felt was derogatory suggesting that the claimant was a lower class and beneath her which was insulting. The claimant was very upset after this however on the Monday she left a bouquet of flowers for NB, she would later learn that NB did not like this at the time however at the time of the gesture she thought her conciliatory gesture had been accepted. In October 2016 NB flagged up that she was concerned about LA's competence, she felt that the claimant was helping LA carry out tasks she should do by herself. The claimant said there was an issue and that she had discussed it with RL and formulated a strategy but when she came into work on the following Monday it had been agreed that LA would then be supervised directly by NB. The job role was re-defined and re-issued.

22. There was a meeting that was supposed to take place in a coffee shop where this would be discussed with the claimant, 'Abby' and LA and NB but the claimant pulled out of the meeting, she said it was because she was ill but it was clear from other emails that this was not accepted behind the scenes. It was noticed that the claimant was upset about the situation as the claimant perceived she had some involvement in LA's employment but now LA's management had been transferred to NB.

23. In February 2017 there was another problem with NB where NB sent an email to the claimant and LA stating "just a quick line to tie up a loose end about the clashing leave on 15 and 16 June, Fiona's leave was approved some time ago and Laura's leave will be approved on this occasion but please liaise with each other to

ensure you are not away at the same time in future ... see below it doesn't look good!".

24. The claimant replied to XX who had been copied into the email exchange by NB. She said "I have already had a conversation with Matt who approves my holidays about this last week after MB questioned me whilst Laura was off and he mentioned to me it is at a peak time when most people are likely to be off, i.e the summer and it is only for two days that our holidays clash so there wasn't any issue. I think she is forgetting/unaware that for X number of years I was manning the phones and admin tasks on my own, I have often been away for ten days at a time and the business has carried on. Also, one of us could potentially be off sick while the other is off on holiday, things happen, there may be an overlap at one point or another in the future but it was not planned and I don't see why there is an issue, as long as we don't both book main holidays at the same time, an overlap of one or two days may/could happen and may be unavoidable for whatever reason. I am getting bored of this now, it is on a weekly basis that she has something to say and isn't happy about something either to do with myself or Laura, I would like this dealt with in the same as it has been dealt with every time she has made a complaint either against myself or Laura because it is now becoming tiresome and it seems to be any little thing to find fault with she will, the phrase "dog with a bone" comes to mind".

25. Mr Lister saw nothing wrong with NB's email in this regard, however whilst the claimant's email was somewhat derogatory NB's was not without any fault either. NB could have just refused LA's holiday and that would have been the end of it, the claimant had booked first but somehow NB was seeking to blame them for the difficulty and was being overly prescriptive in telling them not to have overlapping leave in future. The claimant understandably was annoyed as she had already raised this with her manager who had said that it wasn't a problem. Nevertheless the claimant's reaction was excessive.

Issues with HD

26. The other issue at this time was with HD, the respondent's sub contracted accountant, the respondent also had an accountancy firm working for them but HD did the SAGE related work and liaised with the accountancy firm. HD had her own business and her own office in Altrincham but initially worked two to two and a half days a week in the respondent's business and would do her own work in her own office the rest of the time. When the claimant was out and about doing reception type work and when HD was only in for the shorter period of time the claimant was not too worried about being distracted from her job as she knew she would be able to catch up.

27. The claimant's complaint was that HD talked to her non-stop and about non-work related matters. Once she stopped doing the reception work she was in the accounts office all the time with HD and this coincided with HD starting to come into the respondent's office five days a week. Whilst Mr Lister denied this he had no proof of when HD was in the office – he assumed from a belief her invoices were reasonable. The claimant's suggested that it may well be that HD was not paid for all the hours she was in the office but she would rather be in the office than not. I accept the claimant's evidence on this as on other things she was a credible person, she knew when HD was in or not, Mr Lister seemed completely unaware of what was

going on, he was happy as long as the invoices were reasonable. It is significant that no documentation or other proof was brought about HD's presence in the office, clearly the respondent had not looked into it either when the claimant complained, when the grievance was undertaken or even for the tribunal.

28. The claimant said she raised HD's talking on a number of occasions which Mr Lister accepted as he said he had spoken to HD about it. However, I do not accept he had spoken to her more than once before the email below.

29. The claimant first raised this with the respondent on 11 November 2015 when Andy Roberts, contacted her to ask if he'd upset her. She was quite friendly with Andy Roberts and she replied "No Andy you have not upset me I am just getting a bit stressed because I have had two days of HD talking and she has just come in again, I nearly started crying as I have so much work to do, I can't concentrate as she is either talking about stuff or when she is actually working she is telling me in every minute detail what she is doing and it is putting me off my work. I don't mean to be mean but sometimes it is just too much. She has just come in again a minute ago but she is not staying long so I will be able to catch up today I know its trivial things that's really bothering me at the moment and getting me down and NB is getting on my nerves with her rudeness I've never met anybody so cold, I am telling you this in confidence I want it to go no further".

30. The next thing of relevance that the respondent relied on it was an email from PS regarding health and wellbeing of 2 May 2016, which talked about setting up a working group to look at alleviating stress at work. The respondent stated that as a result of this there was for example a yoga class. The claimant said did he know what had happened to that yoga class, he said no and the claimant said that LA was conducting it but because of the difficulties over the overlapping lunch issue she had had to abandon it.

31. In February 2017 it was agreed there was a meeting between the claimant, Mr Lister and PS, another partner. The claimant brought up the issue of HD distracting her by talking incessantly, Mr Lister stated he had spoken to HD about this before and I accepted he must have done on at least one occasion reading his email of the 9th February.

32. His email of 9 February stated

"Morning HD, PS and I had a meeting with Fi on Tuesday evening and I had another chat with her yesterday it was very much an are you ok meeting followed by a discussion of certain issues (mostly NB) and our requirements for a much more structured and accountable studio where we knew the bookkeeper to be all over the principals and partners in respect of all aspects of project, up front quotes, monitoring on going time relative to invoicing and work stages, highlighting any jobs that are running off track expenses etc etc. This would require her to be much more rigorous and to challenge all principals and partners on any aspects of their projects that fall short of the requirements set. We suggested that she should put all personality differences to one side, she is never going to see eye to eye with NB, they are two very different characters, I will speak to NB in the same vein. She did

suggest that she found it difficult to work sometimes when you are in as you are keen to chat although she was aware that this week you have been very quiet and suspected that something was brewing behind the scenes, she became a little upset at one point and felt we were effectively looking for her to leave, we assured her that we needed everyone to take steps to improve their efficiency and that we would help her to achieve these by speaking to others but that ultimately she needed to be sure that this is what she wanted to be doing. During my conversation with her yesterday she was concerned how to tackle Pete as being the cause of many of the financial issues/inefficiencies that she has had to deal with and it is hard for her not to throw some of these back, I assured her I was tackling these issues with Pete and that Anna Couch and Andy are also on message to assist, I am not sure where she is at but she is clearly feeling the pressure of John being out of work and can't afford to lose her job. She enjoys working at Planit but struggles with NB and Pete and she was keen to do more in HR, this may be a future deciding factor but for now we need to give her as much opportunity to fulfil the tasks we require of her and see how she gets on. In this regard, not that I am aware of it please can you maintain a minimal but friendly level conversation with her when you are in so that she can't suggest that she has been distracted in any way, just wanted to bring you up to date confidentially".

33. The claimant of course did not see this at the time but was very concerned that her personal circumstances at home were being relayed to HD without any authority from herself, but more importantly, that these were being used to deflect from the situation and it was being suggested that she had a problem rather than HD was the problem. I agree with the claimant that the respondent tackled this in this way and it appears to be symptomatic of the respondent thinking there was nothing wrong with HD and it was the claimant who had a problem.

34. Around this time the respondent installed a partial divider between the claimant and HD but the claimant then felt uncomfortable because HD stopped talking to her (for a while), but was still noisy in other ways.

35. In addition, there had been a discussion about moving LA or some other third person into the office but it was decided there wasn't enough room.

36. In April Mr Lister became aware the claimant was unhappy and asked her to set down what her concerns were, he felt this was overly personal and he was shocked by the claimant's attempt to label HD with a condition. The claimant said it was detailed and open because Mr Lister had encouraged her to put all her thoughts down.

37. The email of 7th April went to the four partners, Mr Lister, PS, RL and AR. It said:-

"I appreciate you and the rest of the partners are so busy but this situation has been going on for I don't know how many years now and in the last six/twelve months has become unbearable for me. I linked the problems getting worse initially to her daughter moving away to University and having nothing in her life to do anymore so sees Planit as an alternative to anything else but I think

it is more than that. The screen you got was supposed to help and it hasn't (. I am being spoken at not to through the screen or not at all and at times I don't know what is worse, the uncomfortable silences is where I have sighs, random noises, shout outs of random words, slurping or non-stop eating. There is no happy medium and it is all or nothing. I actually hate coming in to work every day and feel miserable. The past week I have been going home every night with a headache, I have felt anxious, worked up, upset and can't even be bothered to talk to my own husband in the evening because I feel drained. My mum has noticed at lunchtimes I am snappy with her and I am really fed up feeling this way. I thought Helen was supposed to do core hours which was agreed a couple of months ago but now this has gone out of the window and I never know what time she was in apart from every day, she was even speaking to someone on the phone last week and told them that she is in every day so I think in her mind she sees herself as a full-time employee of Planit".

38. She also went on to discuss HD's time wasting and gave examples "she has filled in Wednesday's time sheet which Laura is supposed to do and is able to do and even I would have been faster doing it, during which I had to constantly stop what I was doing to aid her job for about three hours, including when Andy was in the room trying to go through projects with me. She scrutinised the expenses I prepared going through every single receipt to the point where on one of Dominic's receipts I couldn't read some of the text as it was a bit blurry so on the item as it was scanned in and so I didn't include the VAT as the transaction was so small. On checking she adds 17p of VAT, it would have taken her longer to do this, recalculate the expense sheet, cancel my inputs on SAGE and re-input hers than the 17p was even worth. I am all for penny saving and do work hard at trying not to overspend and do my bit when I can but this is just not right. She even questioned me on Louise's expenses because Louise had no receipts but Louise had already shown me her bank statement on her phone which I said was fine, I would not expect to attach someone's bank statement onto the back of a £21.00 expense claim, there is a level of trust to be considered and I trust Louise. I work with these people every day, I am just not bitter to try and stop someone getting something which is how it comes across a lot of the time". There was also an issue about reducing somebody's hours who was due to go on maternity leave and allegedly was being given two days more holiday than she should do, in the claimant's view HD went on about it so much that Mr Lister deducted it. She also said "she has been jumping up out of her seat and marching around the office all week the second the partners are in the vicinity just to be seen, be heard and look busy and its horrible. One day Ed you didn't even get the chance to get your coat off on returning from a meeting and another day Andy was the same, she charged at you like a bull and asked for things like it was the most urgent thing in the world, there is no professionalism or social business awareness of the situation whatsoever. She has made a spreadsheet of any money that Peter has lifted out of the bank and gone through his receipts and put everything onto a spreadsheet in date order "just to see if he spends it as soon as he lifts it out", what a waste of time, if Pete lifts money and spends it does it matter when he spends it as long as we get receipts to post onto SAGE which is the main thing. She also spent a full day photocopying invoices from 2015 to 2016 which are ready to be sent to storage "just in case we need them") we have never had to get anything back out of storage the whole time I have been here, apart from Abersoch

boxes which came back and ended up staying in the office, again another waste of time. I have been moaning to Richard about this too and I have asked if I could be moved to sit next to him, there is a spare desk there and I would happy sit next to Rich, she was given a laptop so she would be able to move out of the room yet she doesn't. When people come in she butts in to the conversation, she interrupts while I am talking to them, going through jobs and projects, there is simply no awareness".

39. The claimant then went on to suggest that HD may have Autism or Asperger's and said "I don't know what to say or do but I am slowly running out of energy and truly believe it is not for me to deal with, I thought it was handled badly last time when she was told I complained about her talking, that just causes friction and bad feeling but then it hasn't made any difference anyway as she has become worse in others ways, she is just out of control, yes I have complained but only because I wanted to come in and do my work for Planit in the best manner and way I can do. At the end of the day you are the ones paying her not me, if this situation will not change then I will have to look for another job, something I wouldn't take lightly and something I wouldn't want to do but I am not prepared to be unhappy and miserable anymore, I want to enjoy my time in Planit since I spend so many hours of my week here and the final straw was when John told me last night that he dreads me coming home from work looking like a broken person. I know you have bigger issues and must be seen like a pain to have to even read this email for starters and you have said before you have more important things to deal with but this is a big issue for me and if I can't speak to you about it then who can I speak to. I am sending you this in strict confidence and do not want any of it to be shared with Helen, it is between us, it has not been easy writing it but I have to think about myself".

40. PS then replied by email on 11th April, copied to all the partners:

"Fiona, I am responding on behalf of the partners to your message and enclose observations regarding HD on Friday evening. Firstly, we need to establish whether through the message that you wish to make a formal complaint about Helen and her actions, you will be aware that we have a grievance policy and under Section 4 you are required to confirm whether your email constitutes a formal written grievance, until this is clarified we are unable to take any further action. For the purposes of clarification on the basic of points raised within your email we do not intend to dispense with Helen's services or to consider relocating you or her in to the studio as a fundamental requirement of our business is to ensure that our accountancy and financial functions remain integrated and continue to operate in a professional manner

On behalf of the partners".

41. The claimant immediately replied stating that it wasn't her intention to raise a formal grievance and she never implied that dispensing with Helen's services she was simply responding to Ed's request to explain her erratic behaviour and what she observes on a daily basis whilst in the office.

42. PS's reply of 11 April however was quite an important document as it did show that the respondent was not considering any other options. At this stage then

the respondent had introduced a partial screen between the desks and had talked to HD about her core hours but clearly HD was not taking any of these concerns on board, possibly because that was the way she was or because the claimant's issue had been presented to her as not really her problem.

43. However, the respondent considered the matter again and wrote to the claimant on 18 April:

“Further to your email of 7 April and subsequent correspondence with Pete we have initially discussed matters in this morning's meetings and will pick up with Ed at the partner's meeting on Thursday. It is our view that whilst you do not wish to initiate a formal grievance procedure there are points raised within your initial email which require further serious consideration”.

And it was arranged that they would meet up the next week and they did meet on 26th April.

44. In respect of 11 April email stating neither HD nor the claimant would be moved Mr Lister at tribunal said it was important to co-locate HD and the claimant as the accounts office had been specifically designed for the purpose and contained all the accountancy documentation in files and it would not be appropriate to put the claimant in the creative studio or have one of the creative studio people in the accountants office, he felt that they were short of space and if they moved the claimant they would have to put somebody else in the claimants' place in the accounts office. However, at the time the issue regarding having to put somebody else in the office was not explored.

45. When I suggested to Mr Lister that they could have trialled some arrangement for say three months to see whether it would work i.e. whether it was so important to have the claimant and HD in the same room he agreed they could have done that. In addition, there was much reference to the fact that the respondents had later recruited a Financial Controller and to the fact that they made the decision before the claimant resigned. However, this begged the question where they were going to locate the Financial Controller as it had already been considered whether an extra person could fit in that office in order to dilute the effect of HD (it had been muted LA moved in) but this had been decided there was not enough room for this. Further, it was clearly a possibility that with the recruitment of a Financial Controller there would either be a dilution of HD's impact or HD's services could be dispensed with, however, instead of considering this either at the time or subsequently the respondents have argued in this case (to which we will return in remedy) that it would have been the claimant's services which would have been dispensed with once the person was recruited. As the claimant pointed out it would have been more logical to dispense with the services of a subcontractor than an employee.

46. It was at this point that the claimant started to record meetings secretly as she felt that she was getting mixed messages from the partners and they were not following through on what they promised her.

47. The only note of the meeting on 26th April was an email from AR to Mr Lister on 27 April. He recorded that the claimant had said that the issues were timewasting

as well as the constant talking, that she was looking back at information which was years old which was unnecessary and undertaking tasks that could be done by the administrative staff. She felt it had been going on for years and she was now at the end of her tether. The email went on “Ed and Andy confirmed that we would monitor the situation in relation to what Helen was doing compared to her job description and time spent on individual tasks however they also questioned that personal issues might be a factor and that there was an element of Helen being of a particular personality or character that clashes with Fiona. On this basis this would require Fiona to be honest with HD over some of the elements of her behaviour because that were causing issues we could not be expected to monitor HD’s behaviour when the two are sat in a room together. Further, she should be able to challenge HD over how she was undertaking her tasks, Fiona felt this was being pushed on her and Andy interjected to confirm that she couldn’t remove herself from responsibility for tackling the behaviour which was affecting her because this was a harder thing for us to detect and measure. Andy expressed concern that Fiona’s email contains signs of stress and asked what could be done to help the situation, in Andy’s personal view the stress could be caused by how Fiona was reacting to the behaviour by allowing it to irritate her and taking it home, with such a mindset it would become easier to focus on character traits which annoyed her and allowed them to become bigger issues than they should be, Andy pointed to a specific element of Fiona’s email which referred to HD “charging over to Andy like a bull” however Andy confirmed this didn’t irritate him at all and didn’t mind HD’s direct approach, Andy confirmed that there may be coaching that could be organised for Fiona to help her manage her stress, Fiona rejected this on the basis that she had no control of how she reacted to the situations and that it was the external situations which were the issue, not how she was reacting to it. Ed concluded that whilst we would monitor HD’s performance the best thing might be for the two of them to go for a cup of coffee to talk through the things which were causing Fiona to be stressed and that in his view HD would not intentionally want to cause Fiona to be so upset and stressed. Again, Fiona said that she felt the problems was being put back on her and she wouldn’t confirm either way whether she would take such a recommended course of action.

48. It is clear from the recording that the claimant believed that the respondents had agreed to talk to HD following this meeting. There was then a serious mistake in the respondent’s timeline. The respondents in their timeline stated that AR offered the claimant a copy of a personal development book and following reading this the claimant said that maybe the resilience coaching offered might be beneficial. It was then said AR provided the claimant with the training details as a hard copy but received no response. This was inaccurate, the claimant did change her mind and said the next day that the resilience training might be useful and that she would appreciate if he could arrange it. AR replied “I will follow up on the resilience training when the Evolving Edge lady comes back to me” and nothing further was heard about that. It was true that on the day of the claimant’s appraisal meeting on 5 July AR provided her with a hard copy of what the training involved but there was no further discussion about when the training would take place.

49. In relation to the appraisal the claimant filled in her proposal form on 5 May but it was not possible to hold a meeting until 5 July. In her appraisal form she did state that she would be happy to undertake the resilience training, she stated that

she felt she had her toughest year in Planit and had already discussed this, "I hope the resilience training would enable me to deal with situations better in the future, I have not been happy with the complaints made about me, especially when I have been told off and my side of the story has not been considered, I get along with others so I find this kind of underhand behaviour to be very disappointing, if you look at my seven years in Planit there has only been one person I have had an issue with and I was not alone in this. I was told by Andy that people choose to act and react the way they do so this person chooses to do so. My goal in the next twelve months is to carry on developing my existing relationships with Planit despite these issues I will try and continue to be happy in my work life". She said in respect of finance she had adapted to change in the way she did things too in able to allow her job to become more efficient and streamlined, and she said she wanted to do more on SAGE. She also raised an issue wondering why herself and LA had been excluded from team trips. She said "I understand neither of us are Landscape Architects or Urban Designers yet we still continue to contribute to the office as a whole by providing support for everyone therefore it is very exclusive to organise these trips and not include everyone, I don't understand why Abby and Naomi were invited yet we were not, I find this disheartening and demotivating. "

50. These three trips were trips to visit other Urban Landscape Design Projects for the purposes of inspiration or guidance in respect of the respondent's own work. In the timeline it was stated "it is important to point out two things, firstly that the trips are wholly at the partner's discretion and they are not a contractual obligation as they are reference in the practice handbook which is expressly referenced in the claimant's contract (this suggests it was contractual).

51. As a result of having this secret recording of the appraisal there was accurate information about this meeting. The respondent never wrote up the appraisal as would be normal practice and therefore there was no other written record of what was said. It was clear in the recording that the respondent agreed that the claimant should go on these trips and felt that it had just been an oversight that she or LA had not been invited. In addition, in the recording, it is clear that Mr Lister agreed that the claimant should carry on providing lunches, he said he liked particularly ad hoc ones and he agreed that the claimant could use LA to prepare for the lunches. The claimant asked this as on a previous occasion LA had started to help her but NB had interfered with this and prevented LA from continuing to help her prepare.

52. Regarding the resilience training there was some correspondence on 8 May where the provider quoted £550 for two one-to-one coaching sessions of 1½ hours each however there was no evidence that anyone ever got back to the provider and Mr Lister was forced to accept that it was the respondent's failure that had led to this not being organised.

53. In respect of the trips the claimant was invited on a trip to Cambridge however this was cancelled. The claimant believed that NB had said it was too expensive, Mr Lister gave evidence that in fact it was because a client wanted another trip to Hamburg and it was felt it was not appropriate to do both, possibly both stories are correct in that to do both was too expensive and therefore the client driven one to Hamburg was then arranged, the claimant was not invited on the Hamburg one, she knew this as she had seen as part of her job the bookings for the flights to Hamburg,

of further interest in relation to the trips was that after promising she could go on the trips it was simply an administrative oversight, when this was brought up in the grievance and AR, PS and Mr Lister were interviewed they all denied any knowledge of the claimant even wanting to go on the trips, never mind them agreeing that she could go on the trips.

54. The documentation showed that NB had questioned LA going on a trip as she said she understood they were first and foremost work-related study tours. AR replied that in the claimant's review they felt there would be a benefit in helping them understand what they did in team building (so clearly at this point he recalled the discussion at the claimant's appraisal). This was in relation to the study trip to Cambridge, that was dated 14 July. However, when the Hamburg trip was being mooted again NB questioned whether Laura and Molly should go and PS said that neither because Molly hadn't been there long enough and Laura and Fi shouldn't go as neither earn fees. In this email on 25 September PS ended with "please now incinerate this email". Mr Lister said this was a joke from the Mission Impossible, whilst I was accept it was a joke I also think there was a hidden meaning to it which is that this was evidence that he was ruling LA and the claimant out of attending trips and that was something he didn't particularly want on the record. The meeting with the claimant on 26 June with Mr Lister following her return to work was not recorded by the respondent but it was recorded secretly by the claimant.

55. I put it to Mr Lister that it could be suggested that rather than he had forgotten that he had promised the claimant this, he was simply stone walling or even lying in respect of this issue to get himself off the hook and that without the recording the claimant would not have been able to prove that all the partners were incorrect in this respect. Mr Lister's response was unsatisfactory, whilst he said that it was not the case he could not offer any explanation for why the versions of all three partners in the interviewing for the grievance were identical and also completely different in his and AR's case to what had been said at the appraisal. There was evidence from emails that PS also knew about the issue but denied it. I find that AR and Mr Lister were misleading the investigators as AR had recalled the appraisal discussion and indeed it was actually recorded on the claimant's own part of the appraisal had they checked it.

56. The claimant then had a week off holiday and found herself unable to return to work on the Tuesday so attended the doctors and was given anti-depressants. She said after a week relaxing at home with friends and family she found it impossible to go back to work with the atmosphere of worrying about the next time NB would be rude to her and having to put up with HD talking all day or uncomfortable yet noisy "silences". She was given Sertriline, she informed the partners quickly but she had to return to work as the respondent only offered 15 days paid sickness absence. As the claimant was the breadwinner potentially at the time she felt she had to return to work. The respondents when I asked them about the sick leave provisions stated "well it was discretionary" the respondent could offer more but this was not anything that the claimant knew anything about and it was certainly not suggested to the claimant that she should have longer paid time off in order to recover.

57. Mr Lister then met with the claimant on her return from the four days sick leave, again the claimant recorded this. Mr Lister stated in his witness statement

that the respondent had done a lot to assist the claimant when she had been sick, however this comprised of a text message from PS whose father in law had mental health problems and he wished to sympathise with her, one further text message from PS and this meeting with Mr Lister.

58. The claimant in this meeting complained again about what had happened that very day with HD. Mr Lister suggested that it was not just HD but NB and PS, he said "I can't see we can make any significant changes in the very short period of time that is going to make you feel instantly better but said they tried to do certain things, he said "have you thought any more about beyond that or are you just going to keep on coming in", which was a reference to the claimant obtaining another job which she then said the only way she could see out of it was to get another job. He recognised she didn't want that but asked her how long it had been things had been getting worse, for a year, six months, and she said she didn't know how long ago it was and they agreed that HD was the primary cause as he said it wasn't sure if it was PS but she said "no" she wasn't sitting with him annoying her all day, with NB she agreed she couldn't stand her but she didn't have that much to do with her, she said "I think she is a nasty manipulating controlling person and I don't think she is good for Planit, I just don't know I just cannot say anything positive because everything is aimed at getting her own way with everything...". Mr Lister then said that Planit had changed for the worse yeah, but sometimes you can't get it right every time, he seemed to be agreeing that NB wasn't a good fit for Planit, she just says it as it is which is not very nice to hear sometimes but I am not saying it is right or wrong. He then said "I know she struggles to get help from people and the way she sees to do it is wrong and her way is she barks and that is the way she is. I could be the same but people might get hurt on the way through but that is her choice and we need to monitor it to see whether it is damaging and clearly it is, it's got a victim". The claimant said "ask anybody I don't think you would have a single person who would vouch for her apart from probably Abby so on that level it is not me taking anything personally, it is her if that makes sense". Mr Lister said "yes but you are obviously more sensitive to it other people might just ..., maybe they are scared she is very intimidating, you just don't see anything possibly or they stay out of the way, she isn't liked, maybe she gets the job done but do you have to be like that to get the job done, I don't think you do".

59. Mr Lister stated that NB had a difficult job to do as she had very strict deadlines of putting bids in and if people didn't provide her with the information she wanted she had to find a way to get it. However, this did not seem to relate to the claimant's experience of NB as there was no instances where the claimant had failed to provide her with anything that she wanted and Mr Lister did not refer to any neither did the claimant.

60. Mr Lister then asked the claimant to give him an ultimatum which she would not do, she questioned him about this and put it to him that it was unfair to ask her to give an ultimatum and that what did he mean by that anyway, and he meant well like "I have to go or HD has to go." Clearly, the claimant then put it to him that that was again putting the responsibility on her rather than the respondent taking responsibility, he did suggest that maybe she should start doing some of the other tasks again that Laura now did, but the claimant felt that now they had got LA had been doing the job for a while that was not feasible.

Mr Lister said did she want to have time off to look for another job. She said she still wanted to do her job and not take any time off. He also suggested that HR should have a meeting with her, i.e. a return to work meeting but he said “well it comes back to that formality thing which I try to avoid because it is not me really and I would rather keep it low key and informal, that’s the way I’ve always tried to work but unfortunately some things don’t work when you go down that route ... I would just say to Andy that we have had this chat and you are going to go away and have a think about it and we will leave it at that and for the moment will keep it informal”. The claimant ended up crying at the end of that meeting. There was no formal meeting with HR. The claimant felt that there should have been a formal meeting to document the situation and more support for her in discussion about what changes it might be possible to make, rather Mr Lister seemed to go along with her suggestion that she found another job and did not resist this.

61. The claimant’s appraisal then took place which I have referred to above. PS did make some enquiry regarding the claimant’s situation on 7 July i.e. regarding her health. A partners meeting on 9 and 10 October decided they would recruit a Financial Controller, however a situation developed in October which eventually led to the claimant looking for another job more seriously.

62. On 6 October the claimant sent an email around everyone in the office to let them know about a Halloween lunch that she was going to prepare with LA, these lunches were a tradition as mentioned before and they did them on different occasions. After sending out the email which included a request that other people answered the phone while LA was helping prepare the food the claimant was confronted by NB who told her that she was surprised to receive the email as she should have come and asked her permission to have LA’s help first. She said she was irate, patronising and very intimidating and although she was normally like this it seemed to be on an increased scale. She said as Laura’s line manager should have had the common courtesy to ask her permission and had she done so she probably would have said yes which the claimant suggested that she would not have done. The claimant said it was only going to be a short period of time and then NB said well it would only be half a day. The claimant pointed out that everybody else in the company could answer the phones and that she had raised this in the email. NB asked whether she got permission from the partners the claimant said she didn’t need it as Mr Lister and AR had given her permission at the appraisal. NB then said she was going to speak to Ed about it and the claimant said “fine speak to Ed” and NB stormed off. The claimant checked with other senior people in the office if her email was ok and they said they wouldn’t have an issue with having a member of their team help, even if she hadn’t asked their permission. As the claimant and LA were non-fee earners she felt it was better they did the preparation than take a fee earner off business. It was suggested she should speak to Ed if NB was going to. At the time Mr Lister was away at a partners’ event, and the claimant observed NB taking Mr Lister into a meeting room the minute he came back into the office on 11th October. The claimant prepared an email with her side of the story and asked for Ed’s confirmation that it was ok for Laura to help on the lunch, she sent it on that day, 11 October.

63. This email was not in the bundle, she did not receive a response so she then asked Ed in person if he had read her email, he said that he hadn't read any emails but he would have a look. Still having had no reply by 13 October she attempted to speak to him again but he was always on the phone so on Monday 16 October she sent a one liner asking for permission to have Laura's help, there was no response again, she was going on holiday on 17 October and therefore she cancelled the lunch before she left for her holiday. It was clear from emails disclosed in the bundle that NB was asking Mr Lister to tell the claimant that LA could not help with the lunch. Mr Lister said that he felt this was in effect a trivial matter which NB and the claimant could sort out between themselves. I suggested to him that that really was not going to happen as NB was much more senior to the claimant and that he had agreed in the appraisal that LA could help. He repeated his answer that he felt it was a matter that could be sorted out between the employees and he should not need to be involved.

64. On returning from her holiday the claimant hoped that something would be mentioned to her about what had happened resulting in the cancellation of the lunch but nothing was said, the claimant sought some legal advice and decided to bring a grievance and also to start looking for another job. The grievance was received on 3 November. The claimant was advised that Peach Law would investigate the grievance, she said she had no confidence in them as she knew it was a company run by someone who was the best friend and next door neighbour of AR. The claimant was never provided with any meeting notes to agree what had been said in any of the meetings. Her grievance was not upheld and this was communicated to her on

65. The claimant was also concerned when she actually saw the investigation notes that the partners responses to some of the questions were word for word the same. However, at the time the claimant was not aware of this.

66. The claimant obtained another job and gave notice on 1 December 2017. At the end of December, the claimant did appeal the grievance outcome which was not to uphold her grievance and the claimant did receive the notes of the grievance. However inadequate or not the grievance investigation was is irrelevant as the claimant had already decided to resign, nevertheless the notes were useful in corroboration or not of matters asserted by both parties.

67. The grievance outcome was communicated on 8th December 2017. Although the grievance was not upheld, recommendations were made as follows: that protocols should be introduced for the claimant and LA's annual leave, lunch hours, special office lunches, training from NB in communication, Mr Lister to reply to staff emails more quickly.

68. It should be mentioned in addition that in cross examination Mr Lister was very proud to point out that training had been introduced after the grievance and that he said NB had improved and changed after the training. The claimant then said to him that therefore he must be accepting that there was a problem with her before the training. Mr Lister sought then to resile from this and gave a very inconsistent answer, this was one of the reasons why I found Mr Lister not a credible witness.

69. I should also note that when asked to draft his witness statement whether he had drafted it due to a comment made by Mr Lister he said that he and PS had drafted it, accordingly the weight to be placed on his witness statement is reduced. I

The Law

Constructive Dismissal

70. An employee may lawfully resign employment with or without notice if the employer commits a repudiatory breach. Resignation can be interpreted as an election by the employee to treat himself as discharged from his contractual obligations by reason of the employer's breach. This is known as constructive dismissal and is a species of statutory unfair dismissal by virtue of section 95(1)(c) Employment Rights Act 1996.

71. It was described in **Western Excavating (ECC) Limited v Sharpe [1978]** by Lord Denning as follows: "If the employer is guilty of conduct which is a significant breach going to the root of the contract of employment or which shows that the employer no longer intends to be bound by one or more of the essential terms of the contract then the employee is entitled to treat himself as discharged from any further performance. If he does so then he terminates the contract by reason of the employer's conduct. He is constructively dismissed".

72. An employee must act reasonably quickly in responding to a repudiatory breach of contract otherwise s/he may be taken to have accepted the continuation of the employment contract and affirmed the contract. However, mere acceptance of salary without the performance of any duties by the employee will not necessarily be regarded as an affirmation of the contract following an employer's repudiation.

73. A claimant can rely on implied or express terms of the contract. Express terms can be written or oral. The claimant relied on the breach of the implied term of trust and confidence in this case as well as an express (though oral) agreement about salary.

74. In **Wood v WM Car Services (Peterborough) Limited [1982]** the Court of Appeal approved the development of the implied term of trust and confidence. It was finally given House of Lords' approval in **Malik v BCCI** in 1997 where Lord Steyn stated that the question was whether the employer's conduct so impacted on the employee that viewed objectively the employee could properly conclude the employer was repudiating the contract. It is not necessary to show that the employer intended to damage or destroy the relationship of trust and confidence. In **Malik** the formulation is that the employer "must not conduct itself in a manner calculated and likely to destroy confidence and trust" and it is relevant to consider whether the employer's conduct in question was "without reasonable and proper cause". This is not the same as the range of reasonable responses test.

75. In proving breach an employee may pray in aid evidence of past repudiatory breaches even though he waived his right to object to them at the time. **Lewis v Motorworld Garages Limited [1985]**.

76. In cases where the basis is an allegation an employer subjected the employee to unacceptable workplace stress the Tribunal should apply the ordinary common law principles on stress cases and go on to consider whether any breach by the employer was sufficiently fundamental to be repudiatory. Of course, discrimination against an employee will generally be a breach of the implied term of trust and confidence.

77. Failure to deal properly with a formally raised grievance may constitute a contractual repudiation based on a specific implied term to take such grievances seriously and not just on the more general term of trust and confidence. **Gold v Pearmak (Limited) v McConnell [1995] EAT.**

78. The particular incident which causes the employee to leave may in itself be insufficient to justify resignation but may amount to constructive dismissal if it is the last straw in a deteriorating relationship. This means that the final episode itself need not be a repudiatory breach of contract although there remains the causative requirement that the alleged last straw must itself contribute to the previous continuing breaches by the employer. **Waltham Forest Borough Council v Omilaju [2004] CA.**

79. Therefore, the claimant has to show that the matters he relies on either individually or cumulatively amounted to a breach of the implied term of trust and confidence. He then has to establish that that breach played a part in his decision to resign where it is argued he has to show that he has not unduly delayed or affirmed the contract.

80. A claimant can also rely on specific breaches without a continuing course of conduct.

81. The respondent can argue that there was a fair dismissal if constructive dismissal is found. Here the respondent relied on the cumulative performance/conduct issues evidenced in respect of the claimant.

Parties Submissions

Claimant

82. The claimant submitted that the respondents had failed to deal with the issues she had raised with them and that that was a breach of duty owed towards her in respect of her health and safety and the implied term of trust and confidence. That the respondents had confirmed they were going to do nothing to change the situation, in particular regarding the location of HD or the claimant and this continued to be the case even after her health deteriorated to the extent that she was on anti-depressants. The respondents offered no solution but in effect agreed that she should change her job. The respondent failed to provide support following her absence due to sickness. That the respondent had not supported her over the Halloween lunch incident but had buried their head in the sand. The claimant submitted that the respondent's cross examination of her had been wholly inadequate and mainly consisted of statements of how great a company the

respondent was, that the respondents had not taken the process seriously, suggesting they were doing her a favour by offering up documents and in fact not providing the full relevant documents in any event. That the respondent had the means to be properly represented at this hearing, but chose to represent themselves and yet had prepared wholly inadequately. The respondents' credibility was affected by her secret recordings which showed that the answers to the grievance investigation were incorrect and further that he had admitted that he had not written the statement himself but with a fellow partner PS. Further that the respondents had chosen not to bring other witnesses.

83. In relation to the situation with HD the respondent had not taken any further action after putting the low-level screen in and sending one email to HD which in fact deflected the blame for the situation on to the claimant and referred to personal factors in her life as the reason for why she was complaining rather than HD's behaviour. The respondent failed to give her reasonable support to enable her to carry out her duties and/or resolve her grievance.

Respondents

84. The respondent's submissions were that they had not committed a fundamental breach of contract, they had done everything they could to resolve the situation with HD and NB, that it was reasonable for them to conclude the problems and oversensitivity to a certain individual brought on by changes occurring in the work place of which the claimant felt she had little control. That the real problem was the claimant's reluctance to accept or adjust to change, clear from her refusing to adopt the very simple request of changing the way she answered the telephone.

Conclusions

85. I find that the claimant was constructively dismissed on the basis of the respondent's failure to resolve the situation with HD., this was a fundamental breach of the implied term of trust and confidence , the duty to resolve greivances and to offer support.

86. In respect of NB the claimant has failed to provide sufficient detail of the alleged bullying to convince me that NB was bullying her and that it was a fundamental breach of the respondent's not to respond to this. The evidence is that NB was not actually manipulating the claimant although the claimant would not have been aware of that until she saw the emails in the bundle which reveal that the real problem was that the partners were giving out different messages to NB. She was acting on them and then finding that another partner took a different view and this made the situation with the claimant more difficult as the claimant heard one thing from Mr Lister which was different from what NB had been told. In respect of the matter in addition this means that the matter the claimant relies on as the last straw. However, in relation to what the partners did about NB the partners were responsible for the situation

87. In respect of the last straw although I have not found that NB was bullying the claimant there was sufficient in Mr Lister's response or lack of response to the Halloween lunch episode to form a last straw, it was not an innocuous act. Although

this initially appears to be a trivial matter it was clear from the documentation that i.e. the transcripts of the secret recordings that the claimant had asked if LA could help her with the lunches and this had been agreed in general, whilst it would have been better if the claimant had asked NB's permission first or if both of them had, once this had not occurred for Mr Lister not to respond to the claimant's email at all was certainly a breach of the implied term of trust and confidence and to provide support, he may have replied to say that although he had said it was ok he felt in the circumstances and/or for the future that NB needed to be asked beforehand, however, just to maintain silence in the light of two emails and the claimant approaching him was a dereliction of his duty to resolve the situation. Accordingly, there was sufficient in this instance to comprise a last straw.

88. In respect of HD, the claimant clearly had complained about this a number of times and there was evidence that the respondent had raised this with HD on one occasion. However, because it was painted to HD in the email in February 2016 as the claimant being unreasonable and it was being the claimant's problem rather than something that HD was doing it was highly unlikely that this would resolve the situation. Indeed, it did not as the claimant continued to complain about this as she did in the informal interview she had with Mr Lister on 26 June 2017. This should have alerted Mr Lister to the fact that speaking to HD and emailing her had been unsuccessful and that maybe the claimant had a point in saying that HD was impervious to reacting properly to issues when they were raised with her.

89. Mr Lister also agreed in evidence that trialling the claimant sitting elsewhere could have been one possibility but the respondent did not consider it did not consider. In addition, there was a spare place next to RL for a year as was recorded in the correspondence but the partners adamantly turned their back to moving the claimant and whilst now there may be insufficient room to move the claimant without having to put a designer into her office this was not the case at the time. Further the partners did not see the recruitment of a financial controller as an opportunity to resolve the situation.

90. In addition, although there was also evidence that the respondent had sought to control HD's hours nothing was done about this at all and the respondents had no idea whatsoever what hours HD was working but Mr Lister was adamant that HD did not come in for five days a week, he had absolutely no proof of this, there is the claimant's evidence has got to be accepted on this and that situation. The fact that no evidence was available regarding how many hours and days she worked was symptomatic of the respondent's failure to address the situation and lack of interest in resolving the situation. This is also supported by the meeting on 26th June where Mr Lister asked for an ultimatum from the claimant (either this was not taking responsibility or it was to give him an opportunity to force the claimant to leave if the ultimatum was not met, as Mr Lister could not explain what he meant a more benign interpretation is not available) and where he did nothing to discourage her from leaving.

91. Neither did the respondent bring any evidence from anyone else other than Mr Lister and whilst he could give hearsay evidence about some things the claimant's evidence whether she had been totally credible or not would have had to be accepted in any event as it was direct.

92. I was also concerned about Mr Lister's credibility whilst credibility is not the only issue in the situation of constructive dismissal it does re-enforce the claimant's conclusions that the respondent was unreliable and could not be trusted thereby breaching the term of trust and confidence.

93. In summary therefore I find that the respondent were in fundamental breach of the implied term of trust and confidence for failing to resolve the issue of HD, to set their minds against moving either of them, even on a temporary basis; failing to monitor HD's hours to make sure she was not in the office more than two and a half days a week as she had been before; not offering the claimant any options after she returned from sick leave.

94. Accordingly, the claimant's claim is successful and a Remedies Hearing has been listed for 14 January and I shall give orders in respect of that separately.

Employment Judge Feeney

Date: 24th October 2018

JUDGMENT AND REASONS SENT TO THE PARTIES ON

26 October 2018

FOR THE TRIBUNAL OFFICE

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[JE]