



# EMPLOYMENT TRIBUNALS

**Claimant** Mr F Rehman

**Respondent:** Plusnet Plc

**HELD AT:** Leeds **ON:** 22 January 2019

**BEFORE:** Employment Judge Shulman

## REPRESENTATION:

**Claimant:** Mr I Rehman, Trade Union Representative

**Respondent:** Miss C Birchall, Trainee Solicitor

# JUDGMENT

The case is dismissed on withdrawal by the Claimant.

# REASONS

1. This is a claim under section 10 Employment Relations Act 1999 (section 10), which relates to the right of a worker to be accompanied by a fellow worker or a trade union representative. It is not necessary for the purposes of this decision to rehearse the definition as to who may or may not be an appropriate trade union representative pursuant to section 10.
2. At the outset of the case the Tribunal asked the Claimant's representative whether the Claimant was required or invited by the Respondent to attend a disciplinary or grievance hearing (which is necessary for section 10 to have effect) and the Claimant's representative conceded that the Claimant was not so required or invited.
3. The Claimant's representative said that the Claimant was simply at the Tribunal because the Claimant wanted his job back. The Tribunal pointed out to the Claimant's representative that this desire was outside the jurisdiction of section 10.

4. It appeared that the Claimant was dismissed because the Respondent invoked its absent without leave procedure.
5. Thereafter the Claimant was given the right of appeal and also the right pursuant to section 10.
6. During the hearing it became clear to the Tribunal that it was inappropriate for the Claimant to use section 10 as a vehicle for his desires.
7. In the circumstances the Tribunal invited the Claimant's representative to consult with the Claimant, who was not present at the hearing, with a view to considering whether or not it would be more appropriate for the Claimant to withdraw his claim, than pursue it, and if the Claimant decided not to withdraw the claim, which was his right, the Tribunal indicated that it would be minded to set the matter down for a preliminary hearing with a view considering whether the claim should be struck out on the grounds that it was scandalous or vexatious or had no reasonable prospect of success.
8. The Claimant's representative took the opportunity to consult the Claimant by telephone and after a 20 minute break returned to say that his instructions were that the claim be withdrawn. The claim was therefore dismissed on withdrawal by the Claimant.

Employment Judge Shulman

Date 24/01/2019

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