



EMPLOYMENT TRIBUNALS

Claimant: Ms A. Williams

Respondent: Remsdaq Ltd (R1)
Mr. T. Breen (R2)
Mr. R. Colston (R3)
Mr. P. Napier (R4)

HELD AT: Caernarfon

ON: 7 – 11, 14 – 15
January 2018

BEFORE: Employment Judge T Vincent Ryan
Mr. R.A Mead
Mrs L. Owen

REPRESENTATION:

Claimant: Mr. P. Gorasia, Counsel

Respondent: Mr. M. Budworth, Counsel

JUDGMENT

Save as otherwise stated the unanimous judgment of the Tribunal is that:

1. The claimant's application to amend her claim to include reference to her having made a protected disclosure to R2 by letter dated 21 March 2017 is granted in the interests of justice. Her application to further amend her claim to add alleged oral protected disclosures to Mr C. Williams and to solicitors instructed by her and Mr Williams is dismissed in the interests of justice.
2. The claimant withdrew nine specific claims of detriment that she had alleged she was subjected to on the ground that she had made protected disclosures and those claims are dismissed upon withdrawal. Five such allegations remain (that she was denied access to IT systems and to R1's premises, was accused of acting outside her authority, she was suspended from work and she was subjected to R1's disciplinary proceedings are the only such claims actively pursued).

3. The claimant made two written disclosures to R2 in his capacity as Managing Director of R1, namely on 21 February 2017 and on 29 March 27 when she disclosed information which in her reasonable belief tended to show that a criminal offence had been committed was being committed or was likely to be committed and that the first respondent had failed was failing and was likely to fail to comply with a legal obligation with regards to fiduciary duties to minority shareholders and due accounting to HM Commissioner of Revenue and Customs. The majority finding is that the claimant made these disclosures not in the public interest, or with a reasonable belief that they were in the public interest, but to assist Mr. C. William, her father, in his litigation against R1. The minority finding (Mr Mead) is that the claimant made these disclosures to assist Mr. C. Williams as above but that she may also have believed that making these disclosures was in the public interest tending to show a fraud on the revenue.
4. Furthermore, the respondents did not subject the claimant to any detriment by any act or any deliberate failure to act done on the ground that the claimant had made the said disclosures (whether protected or not). The claimants claim that she was subjected to any detriment on the ground that she made protected disclosures fails and is dismissed.
5. R1 dismissed the claimant on 2 November 2017 for a reason related to her conduct and the reason (or if more than one the principal reason) was not that she had made the said disclosures (protected or not). The claimant's claim of automatic unfair dismissal fails and is dismissed.
6. The respondent unfairly dismissed the claimant for a reason related to her conduct, on 2 November 2017 and the claimant's claim of unfair dismissal is well-founded and succeeds.
7. Notwithstanding that the respondent dismissed the claimant unfairly she was at significant risk of being fairly dismissed in consequence of which the tribunal finds that the claimant's compensatory award will be reduced by 60% to reflect that risk. ***[DELETION – see deleted wording at para 9 below]***
8. The tribunal found that the claimant's conduct before her dismissal was such that it would be just and equitable to reduce the amount of any basic award by 60% (where the minority (Mr Mead) found that the reduction should be 50%).
9. The tribunal finds by a majority that the dismissal was caused or contributed to by actions of the claimant to such extent that it would be just and equitable to further reduce her compensatory award by 60%. The minority (Mr Mead) finds that such reduction should be 50%. ***[INSERTION – wording from para 7 above] ON RECONSIDERATION, on the application of the claimant, the tribunal unanimously varied its judgment to the effect that this finding (only) ought to be revoked as the factors leading to the deduction at paragraph 7 above were the same or so like the factors taken into account in respect of contribution that there was in effect duplicated penalisation. In all other respects the tribunal confirmed its judgment. The claimant's Compensatory Award shall be reduced by 60% in***

accordance with paragraph 7 above but with no additional reduction for the claimant's contribution to the dismissal as found by the tribunal, as any further reduction would not be just and equitable.

10. The first respondent did not breach the claimant's contract of employment when it dismissed her summarily, that is without notice, in view of the claimant's breach of contract with regard to confidentiality, trust and confidence. The claimant's claim that the respondent breached her contract of employment fails and is dismissed.

Employment Judge T.V. Ryan

Date: 16.01.19

JUDGMENT SENT TO THE PARTIES ON

6 February 2019

FOR THE TRIBUNAL OFFICE

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing (and no such request was made) or a written request is presented by either party within 14 days of the sending of this written record of the decision.