



EMPLOYMENT TRIBUNALS

Claimant: Mr N Kelly

Respondent: Solidor Limited

JUDGMENT

- (1) Upon reconsideration without a hearing, the Judgment dated 18 October 2018 and sent to the parties on 19 October 2018 is **revoked**.
- (2) The claimant's claim is **struck out** on the ground that it has no reasonable prospect of success.

REASONS

1. I refer to the tribunal's letter of 19 November 2018, which was written at my direction, and to the claimant's letter dated 23 November 2018, sent by email on 25 November 2018
2. In relation to paragraph (1) of the judgment, nothing in the claimant's letter affects my view that there was no proper basis for the Judgment in his favour. It has to be revoked.
3. So far as concerns paragraph (2), the claimant's only possible cause of action is breach of contract. He has not in his letter identified any breach of contract, nor has he explained how any breach of contract has caused him to suffer the alleged or any loss. His lost earnings were caused by him being dismissed. It is not a breach of contract for which damages are recoverable to dismiss someone, so long as they are given notice or paid in lieu of notice, and the claimant is not suggesting that he wasn't given notice or paid in lieu. It is not a breach of contract to dismiss someone unfairly, or in breach of a non-contractual disciplinary procedure or a non-contractual company handbook, or in breach of the ACAS code of practice on disciplinary and grievance procedures.
4. It is not clear what the claimant is referring to as the 'basic statutory disciplinary procedures'. The only such procedures there have ever been were part of a process introduced by the Employment Act 2002, the relevant parts of which were repealed in 2008. They would not have helped his breach of contract claim even when they were in force.

5. Acting “*without clear and concise practi[c]e*”, as the claimant alleges the respondent did, is not a valid cause of action. For an employer to act in this way is not a breach of contract either.

1

Case Number: 1301217/2018

6. In short, I am afraid the claimant’s claim is hopeless, as a matter of law.
7. Finally, I should like to apologise to the parties for the delay there has been in this matter being dealt with, which appears to have due to an oversight by the tribunal’s administration.

1301217/2018
13 February 2019

EMPLOYMENT JUDGE CAMP

