



Case Number: 3322309/2019 (V)

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## EMPLOYMENT TRIBUNALS

BETWEEN

**Claimant**

Miss C Wilson

and

**Respondent**

Atlas Cleaning  
Limited

**Held via video conferencing on 18 August 2020**

**Representation**

**Claimant:**

In Person

**Respondent:**

Miss L Broom, HR

**Employment Judge Kurrein**

## JUDGMENT

- 1 The Claimant's claim is not well founded and must be dismissed.

## REASONS

- 1 I've heard the evidence of the claimant on her own behalf, and the evidence of Miss Broom on behalf of the respondent. I've considered the documents to which I've been referred in a small bundle, and to a series of text messages that the claimant has produced screenshots of without objection
- 2 Having considered that evidence and those documents I make the following findings of fact.
- 3 The claimant was born on 5 August 1972, and started working for the respondent as a second job to her principal employment on either 8 or 9 January 2018. Nothing turns on that date.
- 4 On the 30 January 2018, the claimant signed a statement of main terms and conditions of employment, which provided at paragraph 11,  
**"Capability and Disciplinary Procedures.** In the event that your conduct, behaviour or general work capability causes concern the company will follow

its disciplinary or capability procedures as appropriate. The types of offences which disciplinary action will be taken are shown in the procedures, which are contained in the employment handbook. The company reserves the right to vary these procedures, at its absolute discretion. Any suspension from work whilst disciplinary matters are investigated will be without pay”

- 5 The claimants employment was uneventful until the morning of the 10 May 2019, when the claimant had a disagreement with a colleague, Sharon Sweeney. The office received an email concerning that incident which contained a full statement from Ms Sweeney which alleged the claimants conduct to have been violent and intimidating.
- 6 The claimant was suspended by her line manager, Mr Ingram, the same day by a voice message. The respondent wrote to the claimant on 14 May 2019 to confirm that suspension, and it was further confirmed in a letter dated the 24 May 2019. That second letter confirmed that the suspension was without pay.
- 7 There were then a series of delays before an investigation meeting finally took place on the 28t May 2019. In the normal course of events I would have expected that to be followed by a disciplinary hearing because, in my view, there was ample evidence to find that the claimant was potentially guilty of Gross Misconduct.
- 8 The claimant says she heard nothing further from the respondent, although she raised concerns regarding not having heard for them to Miss Broom and Mr Ingram on a number of occasions.
- 9 The respondents case is that on the 13 June 2019, Mr Ingram wrote to the claimant summarily dismissing her, which letter was signed in his absence by Miss Broom.
- 10 The claimant denies ever receiving that letter, or other letters.
- 11 The Claimant’s dismissal was said to take effect on the 16 June, and I accept that she was paid up to that date by a payslip dated 26th of June 2019. However, that reflected a normal pay period.
- 12 What is oss in this case is that thereafter, although the claimant send emails and texts, saying that she had not heard what her position was and didn't know whether she had a job or not, none of the respondents, neither Mr Ingram nor Miss Broom who undoubtedly received that correspondence, replied to her to tell her that she had in fact been dismissed.
- 13 In the event, I have concluded that the claimant did not receive notice of dismissal at that time. She did not in fact, receive or know about her dismissal until she received the respondents response form in about November 2019.
- 14 In those circumstances I've come to the conclusion that the respondent for whatever reason, overlooked the need to hold a disciplinary hearing and also overlook the need to inform the claimant that she had been dismissed. I therefore find that her effective date of termination was in fact the date on or about the 15 November 2019 when she received the respondents response.

- 15 However, I am unable to award the claimant any compensation for that lengthy period of suspension, because her contract with the respondent, which the claimant has accepted she signed, made it absolutely clear that any suspension for disciplinary reasons was without pay. The respondent therefore reserved that right, and I cannot find in favour of the claimant. He claim must be dismissed.

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Employment Judge Kurrein

18 August 2020

Sent to the parties and  
entered in the Register on 02.09.2020

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For the Tribunal

**Notes** 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 or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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