



EMPLOYMENT TRIBUNALS

Claimant: Mrs D Hyland

Respondent: Sandcastle Care Limited

JUDGMENT

The claim is dismissed.

REASONS

1. This claim was presented on 21 July 2020.
2. At 11.58am on 3 August 2020 the claimant emailed the Tribunal saying that following advice from a new solicitor she would like to withdraw her claim against Sandcastle Care.
3. The email was perfectly clear.
4. Under rule 51 a withdrawal has the effect of bringing the claim to an end. The Tribunal has no jurisdiction to set aside that notice of withdrawal. That was confirmed by the Court of Appeal in **Khan v Heywood & Middleton Primary Care Trust [2006] ICR 24**.
5. This withdrawal was effective even though at 1.18pm the same day the claimant emailed the Tribunal to say that she had changed her mind and did not wish to withdraw her claim. Had her initial email been ambiguous I would have construed the two together, but the first email left no doubt as to its meaning.
6. Where a claim has been withdrawn, rule 52 requires a Judgment to be issued dismissing it unless the claimant expressed at the time of withdrawal a wish to reserve the right to bring a further claim against the respondent raising the same or substantially same complaint. That was not done.
7. Nor do I consider that it is in the interests of justice to refrain from

dismissing the claim. The complaints pursued are of unfair dismissal and whistle-blowing detriment, and there is no other forum in which the claimant can pursue claims of that kind.

8. I appreciate that the claimant will be disappointed by the fact that the law does not permit her to revoke her withdrawal, even within a couple of hours, but that is the effect of rule 51 and the case law.

9. I also acknowledge that she may have been told by our administrative staff that the second email would mean that the claim continues, but that is wrong as a matter of law.

Regional Employment Judge Franey

24 September 2020

JUDGMENT AND REASONS SENT TO THE PARTIES ON

30 September 2020

FOR THE TRIBUNAL OFFICE