



EMPLOYMENT TRIBUNALS

Claimant: Ms Nicola Herring

Respondent: EU Ltd

RECORD OF A FINAL HEARING

Heard at: East London Hearing Centre (by cloud video platform)

On: 27 January 2021

Before: Regional Employment Judge Taylor

Appearances:

For the claimant: In person

For the respondent: Mr Hitesh Dhorajiwala, Counsel

JUDGMENT

- 1. The claim of unfair dismissal was dismissed because the claimant did not have sufficient continuity of employment to present the claim.**
- 2. The claim of breach of contract is dismissed.**

REASONS

1. This has been a remote hearing which was not objected to by the parties. The form of remote hearing was video. A face to face hearing was not held because it was not practicable and all issues could be determined in a remote hearing.

2. The claimant carried out work for the respondent, a company engaged in delivery services, as a Multi-drop Delivery Driver from 10 March 2020 until 12 August 2020.

3. Early conciliation started on 19 August 2019 and ended on the same day. The claim form was also presented on 19 August 2020.

4. The respondent prepared a skeleton argument and case authorities in support its application for the claims of unfair dismissal and breach of contract to be dismissed which the claimant had seen and read. The respondent had also prepared a bundle of documents comprising of 63 pages.

5. The issues to be decided in this hearing were whether to strike out the claim for unfair dismissal for the Claimant having less than two years' service and to clarify the claim for breach of contract.

6. Under s 94 Employment Rights Act ('ERA') 1996 to bring a claim of unfair dismissal an employee must have been continuously employed for a period not less than two years ending at the effective date of termination (s 108(1) ERA 1996). Where an employee is wrongfully dismissed they are entitled under S.86 ERA to statutory minimum damages of one week's pay.

7. At the outset of this hearing it was explained to Ms Herring that she needed to have been employed for a qualifying period of two years to present a claim of unfair dismissal. Ms Herring explained to the tribunal that she had presented the claim because she considered the respondent's treatment of her had been very unfair and she prepared a statement for the tribunal hearing. However, Ms Herring confirmed that she did not have the required qualifying period of two years. Accordingly, the claim of unfair dismissal was dismissed.

8. Wrongful dismissal. It was not disputed by the parties that the claimant was given one week's notice of her dismissal. The claimant added that she had not received anything in writing from the respondent until August 2020 and still had not received a P45.

9. The Tribunal asked questions to determine whether the contractual notice pay due the claimant was greater than the one week's pay she had received. The claimant explained that she had not been given a contract of employment to sign. The respondent confirmed that the claimant had not received a contract of employment. The claimant was put on furlough shortly after she started working for the company. On behalf of the company it was explained that it had experienced a variety of difficulties operating during the pandemic and regrettably, the carrying out of the necessary administration had been adversely affected during this period.

10. The Tribunal having confirmed that the claimant had received the lawful and correct period of notice and notice pay, the claim of wrongful dismissal was also dismissed.

11. Costs. Although the respondent had put the claimant on notice that such an application would be made, the respondent made no application for an award of costs at this time.

Regional Employment Judge Taylor

Date: 28 January 2021