EMPLOYMENT TRIBUNALS

Claimant: Mr C Hardy

Respondent: Northern Combustion Systems Ltd

Heard: by CVP
On: 10 & 11 March 2021

Before: Employment Judge Anderson

Representation
Claimant: In person
Respondent: Ms Asch-D'Souza (counsel)

JUDGMENT having been sent to the parties on 18 March 2021 and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

REASONS

Technology

1. This hearing was conducted by CVP. The parties did not object. A face-to-face hearing was not held because it was not practicable and all the issues could be dealt with by CVP.

Introduction

2. This was a claim brought by the Claimant, Mr Hardy, against his former employer, Northern Combustion Systems Ltd (NCS). The Respondent is a small Engineering Company where the Claimant had been employed as a Project Engineer. This was a claim of unfair constructive dismissal.

3. The Claimant appeared in person. The Respondent was represented by Ms Asch-D'Souza of counsel.

Evidence

4. I considered a bundle of documents running to 97 pages, as well as witness statements from each witness.

5. The Tribunal heard evidence from the Claimant and from his wife. For the Respondent, the Tribunal heard from Mr M Hanson (Managing Director) and Mr P Kane (Director). Evidence was heard over two days, followed by submissions. I gave Mr Hardy a little time to prepare his submissions.

The Claims and Issues

6. No preliminary issues were raised, and the Respondent confirmed through counsel that there was no dispute that the Claimant was an employee, or that he had the necessary qualifying service to bring the claim. Further, there was no dispute that the claim had been brought in time.

7. The Claimant alleges that the Respondent made his position untenable, by making the work environment unpleasant following events in January 2019; he cited a number of issues and examples in reliance of this in his claim form and witness statement.

8. At the outset of the hearing, I discussed the issues with the parties. It was agreed that the issues for the Tribunal were as follows:
    a. Whether the Respondent did the things alleged by the Claimant.
    b. If so, whether there was reasonable cause for the Respondent to do those things.
    c. Whether, either separately or cumulatively, those things were calculated or likely to destroy or seriously damage the trust and confidence between the Claimant and the Respondent.
    d. Whether the Claimant resigned in response to any breach of that trust and confidence.
    e. Whether the Claimant affirmed/confirmed the contract before resigning.
    f. Any remedy, as appropriate.

The Facts

9. The Tribunal made the following findings of fact:

10. The Claimant was employed in August 2003 when the Respondent company was owned by a Mr G Wilkinson.

11. Mr Hanson worked for the Respondent from 1991. He was promoted to Executive Director in 2008, at which time he acquired a small number of shares in the company.

12. Mr Kane worked for the Respondent on a contractor basis for a number of years and more or less full time from 2018. He became an employee of the Respondent in February 2019.

13. From 2018, discussions took place between the Claimant, Mr Hanson and Mr Kane in relation to buying out the Company. This was led by Mr Hanson as he was 'part of the deal' being an Executive Director and shareholder.

14. Mr Hanson approached the Claimant and Mr Kane about 'coming in' on any purchase.

15. I understand none of the above facts are in dispute.

16. I find that Mr Hanson sent a letter 30 December 2018 to Mr Kane, as Mr Kane was due to leave the country for a week and Mr Hanson wanted a response before he left. The purpose of that letter appears to have been to set out the advice Mr Hanson had received to date around the 'buy-out', and to seek Mr Kane's views on the potential ways forward.

17. The contents of the letter of 30 December 2018 are not entirely clear. It appears to refer to Mr Kane being offered 12 shares, which amounted to approximately 24/25% of the business. It also, slightly confusingly, refers to shares offered to the Claimant and a 50/50 split. However, what I consider clarifies the position, is Mr Kane's response on 1 January 2019. In his response, Mr Kane refers to the 'remaining' 24% of shares (i.e. those not bought by Mr Hanson) and that he would have 12% (i.e. half). I consider there is a clear inference here that the other half would be purchased by the Claimant. I consider this is further supported by the remainder of Mr Kane's email, in which he raises concerns about going into a partnership with the Claimant (a matter to which I will turn in due course).

18. This exchange clearly demonstrated a dialogue between Mr Hanson and Mr Kane around the possibilities and matters to be discussed. I also note that no deal was in fact done between Mr Hanson and Mr Kane at this time.

19. I therefore do not find that Mr Hanson had 'already' done a deal with Mr Kane on 30 December 2018 as suggested by the Claimant.

20. There is no dispute that Mr Kane sent an email on 1 January 2019, in which he raised a number of concerns about what he considered to be the suitability or otherwise of the Claimant as a Director. This email identified numerous issues Mr Kane had with the Claimant. A copy of the email is in the bundle.

21. It was Mr Hanson's evidence that he spoke to the Claimant on 2 January 2019, at which time they had a 'brief chat'. Mr Hanson said it was his intention to discuss the same information and issues with the Claimant, as had been set out in the letter to Mr Kane of 30 December 2018. Mr Hanson said that the Claimant declined the revised offer being made. He said that the conversation was to discuss the shares on offer and the price, but the Claimant said he was out of it from there; it wasn't in his interests. Mr Hanson said this negated the need for a meeting to discuss any other issues. In his evidence, the Claimant disagreed that this conversation took place, or that he withdrew his interest. He said his withdrawal did not happen during this conversation and that, in fact, he asked Mr Hanson what if he (the Claimant) bought it all? The Claimant said that

in response, Mr Hanson 'umed and ahed' and it became apparent to the Claimant that Mr Hanson had 'chosen' Mr Kane.

22. On balance, I prefer the Respondent's account of this conversation, not least because I consider it is supported by the contents of the email sent by the Claimant on 5 January 2019 which specifically states:

Wednesday 2nd January 2019
On return to the office (Mr Hanson) informed me of his discussions with the accountant during the holidays regarding the joint purchase of NCS Ltd and the reduced share on offer to (Mr Kane) and myself, for a greater investment. I had to decline the opportunity to invest.

23. In that email, the Claimant also says that he told Mr Hanson that he would not be happy working for Mr Kane – 'with him yes, but not for him', and I find that this was clearly the Claimant's view.

24. The Claimant came to read the email sent of 1 January 2019 from Mr Kane to Mr Hanson, on 3 January 2019 due to the following:

25. Whilst Mr Kane was abroad, he sent some images to Mr Hanson. Mr Kane told Mr Wilkinson he had done so. There appears to have been some confusion on Mr Wilkinson's part, as he thought the images had been sent to Mr Hanson by email, when in fact they had been sent by WhatsApp. Mr Wilkinson instructed the Claimant to look in Mr Hanson's email inbox to locate the images.

26. The Claimant says that he did a search of Mr Hanson's emails for messages from Mr Kane and he looked at emails both with and without attachments. He said he did this, because when images are sent from certain devices, e.g. iPhones, the images are embedded within the body of the message, rather than attached separately. The Claimant says there was a reading pane on Mr Hanson's emails and when he came to the message of 1 January 2019, he saw his name in the first paragraph. He accepted he read it, saying he is 'only human'. The Claimant also accepted he then printed it out.

27. Mr Kane notes that the Claimant must have looked at emails pre-dating his (Mr Kane) going abroad. The Claimant says he did not know Mr Kane's travel dates.

28. I accept the Claimant's version of events on this issue. I find that he accessed the emails under instruction. I also note that the Claimant and Mr Hanson were in agreement in their evidence that emails could be, and were, accessed by other employees at times.

29. On reading the email on 3 January 2019, the Claimant became very upset. He emptied his work drawers and took all his belongings to his vehicle. In his witness statement, Mr Hanson said that the Claimant had threatened to resign. In his oral evidence he confirmed he couldn't recall the specific comments made, but was clear the Claimant had taken all his things, had emptied his desk and 'was gone'. The Claimant suggested his actions could be seen as his going

to work from home. Mr Hanson told me this was not said. Mr Hanson said he told the Claimant to go home and calm down and they would talk later.

30. I find it was a reasonable assumption, in the circumstances, for Mr Hanson to believe the Claimant was leaving his employment, as opposed to simply and suddenly gathering all his belongings to begin working from home.

31. Such an assumption I consider is borne out again by the Claimant's own email of 5 January 2019, in which he refers to 3 January 2019 and says "*I felt I had no choice but to verbally submit my notice to (Mr Hanson) to leave NCS*".

32. It is further supported by the text message exchange between the Claimant and Mr Hanson on 4 January 2019. In those messages, the Claimant says "*if you have definitely decided to go ahead with (Mr Kane) then my decision yesterday still stands and I'll send an email to (Mr Wilkinson) to that effect*."

33. Mr Hanson's response to the Claimant included the comments "*I asked (Mr Kane) to lay his cards on the table as if all was not 100% when we sign up we would not get another chance and all would fail. The same was to be asked from you…When I have time to think…I will then decide how to proceed, as one or with backers…how the chat materialised Wednesday and yesterday I think it best for me not to proceed with yourself as a partner in business…I have known you for say 19 years and got on well with you. Your skills are valuable to NCS and me and can be rewarded as an employee. Even if (Mr Kane) is 'not in' he would be most likely still be working here. You have to make your own choices*."

34. In the event, the Claimant's 'resignation' was not effected at this time. In his email of 5 January 201, the Claimant clarified his position as follows: "*If it is decided (Mr Kane) will not have any interest in the company then I am more than happy to continue working for (Mr Hanson) as discussed on Friday - indeed more than 18 months ago, on more than one occasion, I told (Mr Hanson) he had no need to offer me shares to keep me on board. But I was grateful for the opportunity to invest...If (Mr Kane) is to be onboard at NCS any time in the future, then my last working day will be Thursday 30th January 2019, or sooner if you wish*."

35. The Claimant alluded to the email of 1 January 2019, describing a "*tirade of personal insults aimed at myself, of which I knew nothing about beforehand*." He referred to Mr Kane as a subcontractor who had been offered a fantastic opportunity to invest in an established successful company, yet felt able to make "*unfounded derogatory comments and criticise a long serving member of staff in this way*". The Claimant's email stated that "*Understandably this has strengthened my resolve to never work for any company in which (Mr Kane) has a financial or management interest over myself*."

36. Mr Hanson proceeded to buy all the outstanding shares alone.

37. The Claimant says that from this point onwards, there was a distinct change in Mr Hanson's attitude towards him. The Claimant raises some specific issues within his evidence that he says demonstrates this, which I address below.

The Contract:

38. The Claimant (and other employees) did not have a written contract with the Respondent until February/March 2020, when Mr Hanson arranged for these to be issued.

39. Mr Hanson said he provided a general copy of a contract to the Claimant for his comment and input.

40. The Claimant sought amendments to his contract on at least two occasions. These amendments were made by the Respondent.

41. The Claimant complains that the contract initially included a term about working away overnight. However, this was removed at his request and he accepted in his evidence that he had no outstanding issues or complaints with the contract when he signed it on 13 March 2020.

Exclusion:

General Input:

42. The Claimant says that Mr Hanson stopped seeking his input into company matters after January 2019.

43. I find this is not the case. I note that on 17 December 2019, Mr Hanson emailed the Claimant asking for his help on the 'clocking in and out' procedure he wanted to implement. Within that email, the Claimant is explicitly asked to review it, with his 'expertise of grammar', and is asked what he thinks of Mr Hanson's proposal to put it on the notice boards. Mr Hanson said that he also provided a general copy of a contract to the Claimant for his comment and input, though this was not in the bundle.

Website:

44. The Claimant says he was excluded from discussions pertinent to his responsibilities and duties. One specific example he gave was in relation to a new website for the Respondent. The Claimant said he had been heavily involved when the previous management (i.e. Mr Wilkinson) had wanted a new website, but that after January 2019, this, along with work relating to a new logo, were both outsourced by Mr Hanson and Mr Kane. The Claimant says he should have been involved in these pieces of work.

45. Mr Hanson's evidence was that the Claimant was initially asked to help with this, but after 12 months the work had still not been done and so Mr Hanson asked Mr Kane to deal with it; the work was then outsourced. When I asked the Claimant about this, he said that his workload had put paid to him being able to do the work; he just 'didn't have the time'. When I asked how this then amounted to exclusion, the Claimant said it was because it was done behind the scenes and he could have done it. When I pointed out that he had just told me he

couldn't do it because of his workload, he said 'none of us could' and said Mr Hanson was suggesting he wasn't doing it fast enough.

46. I do not consider that the way in which the Respondent presented this evidence was done so with the intention of criticism, it was merely a statement of fact, which the Claimant accepts – there had been a delay.

47. I do not find that the Respondent outsourcing this work, via Mr Kane, which had not been possible to complete in-house, amounts to any exclusion of the Claimant. The Claimant agreed it had not been possible to complete the work on a new website due to time constraints and workload. I do not consider a subsequent decision by Mr Hanson to outsource this, when it could not be provided as quickly as required in-house amounts to 'excluding' the Claimant, or a failure to honour his contracted duties. In any event, there is no specific mention of website design in the list of duties and responsibilities within the Claimant's contract.

Christmas meal:

48. The Claimant says he was not invited to the Christmas meal and was later told this was because it was assumed he wouldn't attend.

49. Mr Hanson and Mr Kane were both adamant that the Claimant was asked to the meal and was in fact provided with menu choices. Mr Kane agreed that he had assumed the Claimant would not come and that in the event, the Claimant didn't come, for the very reasons Mr Kane had predicted, relating to distance and taxis home.

50. There was no evidence provided from any other individual in relation to this issue.

51. On balance, I prefer the Respondent's evidence. Both witnesses were absolutely clear about this and were able to give clear evidence of the conversations and timelines involved, including referring to the Claimant wishing to discuss the issue with his wife.

Training:

52. The Claimant says that all other employees (except the secretary) were sent on a 'Passport to Safety' course. He says he was excluded from this and was told it was unnecessary because he was office based. He said this was not true and that he did go to site sometimes.

53. Mr Hanson said it was not necessary for the Claimant to complete this course, because he did not work on site. If the Claimant had to attend site, this would be solely for meetings/measuring up, during which time he would be chaperoned. The Passport to Safety course is intended for those who are left alone to work on a site. Mr Hanson explained that he himself did not need to complete the course and he and the Claimant had visited sites together in the past without having completed it. He said he had completed it now, because he did not consider he should ask others to complete a course of this type without doing it himself. The Claimant did not challenge this explanation once given.

54. I accept the Respondent's account of this and accept the course was not necessary for the Claimant's role.

Criticism:

55. The Claimant said there were daily, ongoing, unspecified issues. It is not possible for the Tribunal to assess matters pleaded in this way. However, the Claimant was able to provide the following specific examples:

'Stuck in the past':

56. The Claimant alleged that the Respondent had repeatedly referred to him as being 'stuck in the past', or words to that effect, which he evidently took very personally. Both Mr Hanson and Mr Kane denied this. They did both however indicate that there were conversations about the need for the *technology* at the company to move forward.

57. I reflected on this evidence and I find that on the balance of probabilities, it was the technology that was commented upon, rather than the Claimant himself, given the context in which the hearing proceeded and the evidence unfolded.

58. I am conscious that the Claimant was responsible for much of the IT work at the Respondent and had, for example, built some PCs a number of years ago. During the hearing he made some comments about the disruption or difficulty when someone came in with a laptop, because it affected the systems. The Respondent said that the Claimant had the approach of 'if it's not broken, it's fine'. The Claimant expressed a very similar view during the hearing, when he said 'it worked, why touch it?'.

59. I note that the Claimant's phone did not work with the clocking in and out system, which I understood was due to the age of the phone.

60. I considered that the Claimant may be defensive of any criticism of the technology at the Respondent company, perhaps because he had been involved in this aspect. I also consider it likely he has taken any criticism of the IT generally as a criticism of him personally.

Working pattern:

61. The Claimant worked reduced hours (30 hours per week). The Claimant said that these hours didn't suit Mr Hanson and he was critical of the arrangement. When I asked where or what the criticism was, the Claimant stated that Mr Hanson said he (the Claimant) didn't suit the Respondent's ideas.

62. I reviewed the email dealing with this issue, sent by Mr Hanson on 23 November 2019, and I do not agree with the Claimant's interpretation. In the email, Mr Hanson says that he would prefer the Claimant to be full time, but acknowledges that this does probably not suit him (the Claimant). Mr Hanson explains this meant potentially looking for another person (in addition to the Claimant). The email also asks the Claimant his preferences around the length of his lunch breaks and says some fixed hours are needed so Mr Hanson is aware when the Claimant is working.

63. I consider these entirely reasonable requests of an employee and do not find this email amounts to criticism of the Claimant.

Criticism in front of Others:

64. The Claimant says that there were times when he was criticised in front of others. Two examples were discussed during the hearing, one in relation to a bearing and one in relation to a door motor. The Claimant said he was criticised on the 'engineering side' and the others were wrong; the Claimant said it was he who was right in his choices.

65. Mr Hanson said there was a generic discussion with an engineer about the bearing. He said that in relation to the door motor, on paper, it had been designed correctly and the Claimant did a good job. In the meeting, it didn't work properly. An engineer attended who said it was working as it had been designed to do so, but was not performing optimally. Mr Hanson said that opposing views were taken, but there was nothing to be ridiculed about.

66. Mr Hanson and Mr Kane appeared to me to be genuinely at a loss as to why the Claimant would consider these conversations amounted to criticism and referred to these examples as engineering conversations.

67. The Claimant did not produce any evidence from any other person that had been present or witnessed any instances of his being criticised or undermined.

68. I do not find there was any criticism of the Claimant in front of others.

69. On 4 June 2020, Mr Hanson sent an email to the Claimant providing updates on various issues and changes, as well as making requests in relation to a number of issues. The final point, point 6, informed the Claimant that Mr Kane was being made a Director. Mr Hanson noted that "*I know this will be an issue from past discussions and you will have to make some choices giving all some thought*."

70. A conversation then took place between the Claimant and Mr Hanson. In his evidence, Mr Hanson said that during that conversation, the Claimant was aggressive, upset, and repeated 4-5 times that he would work with, but not for, Mr Kane. The Claimant did not challenge this. I find this is what happened. I make such a finding with reference to the reactions and statements of the Claimant in January 2019, in light of the lack of challenge to that part of the evidence, and in no small part in consideration of the Claimant's clear ongoing animosity and anger towards Mr Kane, which was evident throughout his evidence and during the hearing.

71. The Claimant resigned by email dated 4 June 2020.

72. The Claimant's last day at work was 2 July 2020.

Legal Principles

73. Unfair dismissal is dealt with in the Employment Rights Act 1996 as follows:

74. Section 94(1) provides that an employee has the right not to be unfairly dismissed by his employer.

75. Section 95 sets out that:

> (1) For the purposes of this Part an employee is dismissed by his employer if…
> …
> (c) the employee terminates the contract under which he is employed (with or without notice) in circumstances in which he is entitled to terminate it without notice by reason of the employer's conduct.

76. For a claim of constructive dismissal to succeed, a claimant must show they have resigned because of a fundamental (sometimes called repudiatory) breach of the employment contract. Many cases, including this one, rely on a complaint that the employer has breached an implied term of the contract, namely not to breach the term of mutual trust and confidence between employer and employee.

77. It was confirmed in the case of *Malik v Bank of Credit and Commerce International SA (in compulsory liquidation) 1997 ICR 606, HL* that the duty is that neither party will, without reasonable and proper cause, conduct itself in a manner calculated or likely to destroy or seriously damage the relationship of trust and confidence between employer and employee.

Application of the Law to the Facts

The 1 January 2019 email:

78. Mr Hanson had specifically asked Mr Kane to identify any issues of concern during the process of the buyout negotiations. He stated that an 'all cards on the table' approach was required.

79. Mr Kane's email was sent in response to that request. It did identify potential concerns on Mr Kane's part. In his oral evidence, Mr Kane repeatedly explained these were his observations and the purpose of particularising them was to raise these for all to see, and for the three men to meet and discuss all the issues before embarking on any co-shareholding.

80. In my judgment, Mr Kane identifying his concerns in this way was entirely reasonable. Buying shares and taking on the burdens and responsibilities of a company is a significant step. I accept that it was important that all three men were comfortable with any proposed arrangements. As Mr Kane said in evidence, without raising such issues, friction would be likely, and any friction at the top would trickle down and destroy the company.

81. I do understand why the Claimant is upset by the contents, and I acknowledge there are numerous questions raised by Mr Kane as to the Claimant's abilities,

approach and so on. However, I do not consider it was unreasonable for Mr Kane to raise them in this context. Therefore, in my judgment, the Respondent had not, without reasonable cause, behaved in such a way that was likely to destroy or seriously damage trust and confidence.

82. In the event, Mr Hanson ultimately 'did the deal' on his own at that point in time (in order, he said, to retain the Claimant at the company), Mr Kane did not become a shareholder or Director, and the Claimant's resignation did not take effect, as he clarified the basis of any resignation in his email of 5 January 2019.

83. I note the Claimant continued to work for the Respondent for nearly 18 months after the email of 1 January 2019 (notwithstanding the issues he said then arose). I consider that even if there had been a breach in January 2019, this would amount to the Claimant affirming the contract at this point.

The Contract

84. I remain unclear as to the complaint as it relates to the contract. The Claimant says that Mr Hanson's attitude to his wanting to discuss the contents 'said it all'; the Claimant perceived that Mr Hanson thought him being awkward. The Claimant asserts that the Respondent removed a term from his contract relating to site visits, 'to make it appear he refused to do them'. However, the evidence was clear that Mr Hanson made the amendments to the contract that the Claimant sought, and the Claimant agrees there were no outstanding issues when he signed it on 13 March 2020.

85. There is no evidence of any conduct by the Respondent, as it relates to the provision of a written contract of employment, that could be remotely described as calculated or likely to destroy or seriously damage trust and confidence.

Christmas Meal/Criticism

86. I have already said that I do not accept the Claimant was excluded from the meal, or was subject to adverse criticism.

Work Pattern

87. The issue of asking about work time/pattern is an entirely reasonable step for an employer to take. As above, Mr Hanson explained that he needed to clarify this because of business need. I also note that the times of the Claimant's work were clarified and particularised within the contract of employment, which the Claimant signed.

Analysis

88. The Claimant said things were not the same after January 2019 and the workplace became an unpleasant place to work. Whilst this may have been the Claimant's emotional reaction to the events of January 2019, I do not consider that it is an objectively fair description, in light of the findings I have made and in light of the comments of the Respondent witnesses. Both Mr Hanson and Mr Kane spoke very highly about the Claimant's abilities in respect of his job. Even in Mr Kane's email of 1 January 2019, he said he thought the Claimant was very good at his actual job. Mr Hanson referred to how valuable the

Claimant's skills were both to him and the company in a text of 4 January 2019 and I note that Mr Hanson did not 'do a deal' with Mr Kane in January 2019 for the very reason he didn't want to lose the Claimant from the company. During the hearing, the positive comments about the Claimant were repeated; Mr Hanson going so far as to say that the Claimant should still be working for the Respondent. I do not believe these are the comments of people who wanted to get rid of the Claimant as he claims.

89. It was reasonable of Mr Kane to set out his concerns in his email of 1 January 2019. Even if there was a fundamental breach of the contract of this stage, which I do not consider there was, the Claimant affirmed the contract by continuing to work for the Respondent for a further 18 months.

90. Having considered all of the specific issues raised by the Claimant in relation to the period after January 2019, I refer back to the findings of fact I have made. I have concluded, on the evidence, that there were no instances of behaviour on the Respondent's part that were calculated or likely to destroy or seriously damage the trust and confidence between the Claimant and Respondent. I find there was no fundamental breach of contract. Therefore, there can be no constructive dismissal.

91. Even if there was a fundamental breach of contract, which I do not find there was, I would have found that the Claimant did not resign in response to any of the alleged behaviours. I am satisfied that he resigned because Mr Kane was made a Director, which was intolerable to him. The Claimant confirmed that in January 2019 he would resign if Mr Kane was made Director. The Claimant confirmed that when Mr Hanson told him Mr Kane was becoming a Director, Mr Hanson said the Claimant had choices to make. The Claimant said the choice was to stay or go. I find the reason for the Claimant's resignation was the appointment of Mr Kane as Director, not the specific issues referred to, either individually or cumulatively.

92. Whilst not of itself fatal, the contents of the conversations and resignation email are relevant. In the email of 4 June 2020, the Claimant makes no reference to any specific issues later referred to, as leading to his decision.

Summary

93. Mr Kane did send the email of 1 January 2019, and there was reasonable cause for him to do so.

94. The Respondent did not exclude the Claimant or criticise him in the manner as alleged.

95. The Claimant was asked about his working pattern and this is an entirely reasonable matter for an employer to raise with an employee. There were also differences in opinion, and conversations about the need to improve the company's technology. These conversations were not, either separately or

cumulatively, calculated or likely to destroy or seriously damage the trust and confidence between the Claimant and the Respondent.

96. The reason for the Claimant's resignation was the appointment of Mr Kane as a Director; an appointment which was intolerable to the Claimant due to his own feelings about Mr Kane.

Conclusion

97. I am satisfied that the Claimant had maintained his view that he would never work 'for' Mr Kane and this was the reason he resigned on 4 June 2020. I noted the obvious animosity from the Claimant towards Mr Kane even during the hearing, including the Claimant referring to Mr Kane as the 'cuckoo in the nest'. The Claimant also proceeded to criticise Mr Hanson.

98. I note that the Claimant did not raise with the Respondent witnesses some of the issues he detailed in his witness statement as contributing to his decision to resign. I of course take into account that he is unrepresented and unfamiliar with the processes of the Tribunal. However, I was struck by the main focus of his questions and statements being primarily related to the events of December 2018/January 2019. His secondary area of focus was that he was 'excluded' and criticised. He said he wasn't listened to and his choices were wrong. When I asked him whether these were simply differences of opinion, the Claimant said that they were wrong, and he believed his choices were right. It seemed to me that these were in fact differences in opinion.

99. The claim for unfair constructive dismissal is dismissed.

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Employment Judge Anderson

Date 25 May 2021