



EMPLOYMENT TRIBUNALS

In the London Central Employment Tribunal

MS JADRANKA NIKOLIC

Claimant

and

COUNTRYWIDE

Respondent

HELD ON: 14 OCTOBER 2021

BEFORE: Employment Judge Mr. T Russell sitting alone (CVP video audio call)

REPRESENTATION:

Claimant: In person

Respondent: Mr Rhodes . Counsel

Judgement

The Claimant' s claim for an unauthorised deduction from wages fails and is dismissed

Reasons

1. The Claimant was employed from 9 January 2020 to 12 March 2021 as a new home site negotiator for the Respondent estate agency. Primarily for the development known as Leyland Court.
2. Her employment was based on a fixed term contract of 12 months. She was paid a basic salary and commission based on sales as one would normally expect for sales negotiators. But the sale of the Leyland court property sales was significantly delayed and the first of these properties did not exchange contracts until 11 May 2021 some 2 months after the Claimant's employment ended and 3 months after she was given notice which was on the alleged grounds of capability.

3. On 10 March 2021 the Claimant sought commission she claimed to be due of around £6,000 on a total of 15 sales that had not yet exchanged or completed. This was on the basis that significant work had gone into agreeing these sales. Which I find is the case. However, the commission scheme applicable to her (which she accepts as being so and that she signed up to) made it clear that, inter alia: -

“You will not be entitled to receive any commission which falls due for payment after the termination of your employment (whether by resignation or dismissal), even if the work was completed by you during your employment.” Section 19

4. Whilst there were delays, perhaps unnecessary ones, this was not the fault of the Respondent, and I find (and this is accepted by the Claimant) that none of the properties on which the Claimant claims a commission had exchanged and/or completed by the date notice was given or indeed by the Claimant's last date of employment.
5. The Claimant was paid all the commission to which she was contractually entitled to as well as notice pay. And however unfair it might seem to her (and or was unfair) given the work she had put in the company rules were clear and applied to all agents. And she accepts she had signed up to and agreed them.
6. The Claimant may think she was dismissed in order that the commission was not payable at all but having heard her evidence, and from Mr. Rosen her line manager, it is clear to me that this is not the case. It remains undisputed that the commission was later paid to the Claimant's replacement. So, it was paid but not to the Claimant. Unfair as this might appear to be/be this is not a breach of contract by the Respondent.
7. It is unfortunate for the Claimant that she did not get the reward for her hard work, but she has no contractual entitlement to the payment claimed and her wages act claim therefore fails.

Russell

EMPLOYMENT JUDGE -

14 October 2021

Order sent to the parties
on: 14/10/2021

.For the Tribunal

