



EMPLOYMENT TRIBUNALS

Claimant: Miss A Jackson

Respondent: Connected Health Plus Limited

Heard at: Manchester (remotely, by telephone)

On: 25 October 2021

Before: Employment Judge Whittaker

REPRESENTATION:

Claimant: In person

Respondent: Mr Jagpal, Employment Consultant

JUDGMENT

The judgment of the Tribunal is that:

1. The claims of the claimant are dismissed on withdrawal by the claimant.
2. The name of the respondent to the claims of the claimant is changed to Connected Health Plus Limited.

REASONS

1. The Tribunal had been provided with a limited number of documents but most unfortunately, they did not include a copy of the contract of employment. No satisfactory explanation could be given to the Tribunal as to why the representatives of the respondent had not included in the bundle a copy of the contract of employment. The case was therefore temporarily adjourned whilst Mr Jagpal was given the opportunity to ensure that a copy of the contract of employment was sent immediately to the claimant and to the Employment Tribunal. The case was adjourned for 20 minutes.

2. A copy that contract was supplied but due to technical difficulties with Outlook it could not be supplied to the Employment Tribunal, but it was supplied to the claimant. It was clear that within the wording of that contract the claimant was only entitled to receive statutory sick pay during periods of sickness. In her Schedule of Loss she had claimed substantial loss of earnings by comparing the value of statutory sick pay to what would have been her normal earnings. It appeared therefore that the claimant had received what she was entitled to under the terms of her contract of employment. The claimant indicated that she had not signed the contract of employment, but when it was explained to her that that was not necessary she did indicate that she recognised that she had been issued with that document. It did not appear therefore that the claimant had any claim for loss of earnings relating to periods of sick pay.

3. The claimant explained that she had not received the wages that she was entitled to during a four week period of suspension between 1 and 29 April 2021. However, in discussions with the claimant it became clear that although she may not have been paid the correct monies at the time that having complained a further payment was made to her retrospectively, and the claimant accepted that as of today she had been paid the monies she was entitled to during her period of suspension and therefore had no further claim to pursue in respect of that period of time.

4. Again in her Schedule of Loss the claimant had referred to an alleged failure by the respondent company to pay the pension contributions which were the subject of her contract of employment. She had however raised this with the pension organisers and with the Pensions Ombudsman, and it appeared that following that intervention the company had, again retrospectively, made a payment. The claimant indicated however that following that period of exchange of correspondence that once again the company had failed allegedly to make pension contributions. The claimant indicated however that she was content to pursue those alleged non payments with the pension scheme provider and with the Pensions Ombudsman and that she did not wish to involve the Employment Tribunal in that dispute.

5. The claimant had clearly not resigned and had clearly not been dismissed. It was not possible therefore to suggest that the claimant had any form of claim for unfair dismissal because she was still an employee of the respondent company. The claimant asked the Tribunal what steps she could or should take in connection with her employment, bearing in mind that she now felt that she could not return. The Tribunal indicated that it was not in a position to offer advice except that if the claimant was unable to return to work that she may think of resigning, and if she then wished to bring a claim following termination of her employment then she should do so by registering a fresh claim through ACAS and, if necessary, a fresh claim with the Employment Tribunal.

6. Following discussions with the claimant it was not possible for the Tribunal to identify any other claims that would fit within the employment statutes relating to the jurisdiction of an Employment Tribunal. It was suggested to the claimant therefore that she may think it appropriate to withdraw her claims following the discussions and explanations which had been offered to her, in particular careful consideration of the contract of employment. The claimant indicated that she was content for her claim form to be marked as "withdrawn" on that basis and for the claims, such as they were, to be marked as "dismissed".

Employment Judge Whittaker

Date: 29th October 2021

JUDGMENT AND REASONS SENT TO THE PARTIES ON

05 November 2021

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