



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr P Reid

**Respondent:** Solent University

**Heard at:** Southampton **On:** 6-7 September 2021

**Before:** Employment Judge Reed

**Representation**

**Claimant:** Mr M Wise

**Respondent:** Ms M Steed, counsel

**JUDGMENT** having been sent to the parties on 8 October 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

1. In this case the claimant Mr Reid said he had been unfairly dismissed by his former employer Solent University ("the University"). For the University it was conceded that Mr Reid had been dismissed but it was said the reason for his dismissal was redundancy and furthermore that the dismissal was fair.
2. I heard evidence on behalf of the university from Prof Bhattacharya the Dean of the school in which the claimant worked, and from Ms Baker, the University's Head of People and Development. I also read a statement from the deputy vice chancellor, Prof Hall, and I heard from Mr Reid himself. My attention was also directed to a number of documents and I reached the following findings of fact.
3. Mr Reid was employed by the University from November 2010 and at the time of the events giving rise to his dismissal he was employed as a grade 8 lecturer. His job was to teach marine engineering to merchant navy officer cadets.
4. In the period up to the summer of 2019 there was a curriculum review undertaken by the University, the result of which was the reorganisation that led to Mr Reid's dismissal.

5. Mr Reid attended a meeting in connection with that reorganisation on 20 September 2019. He was told that he was at risk of redundancy. At that meeting and a further meeting on 26 September he was given a broad idea of the business case that had led him to be at risk although he was not provided certain further detail until 19 November.
6. Following the meeting of 26 September it was agreed that any further consultation would take place in correspondence.
7. For various reasons, the University had decided to reduce the number of teaching hours of its staff. The essence of the proposal insofar as it affected Mr Reid was that the University would no longer require people in the positions currently occupied by him and his grade 8 lecturer colleague, Raz. There would be a lesser requirement for teaching hours and such work as there was would be at a lower level. A lower (grade 6) job would be created that would carry out the relevant teaching hours.
8. Mr Reid made representations about the proposals. He suggested that one way of avoiding redundancy would be to retain him on a 0.8 full-time equivalent (FTE) contract, reducing his wages and associated costs by 20%. There was no specific response to that suggestion on the part of the University.
9. The way in which the matter progressed was that a recommendation went forward to the deputy vice chancellor for her to consider. There was a meeting on 17 January 2020 at which Mr Reid had the opportunity of making representations to her, as indeed he did. However, the outcome of the meeting was that the deputy vice chancellor endorsed the recommendation made by Prof Batacharia and the claimant's employment terminated on that day.
10. He appealed against dismissal and there was a hearing before the University's board of governors on 2 June 2020. The appeal was unsuccessful.
11. Under s98 of the Employment Rights Act 1996 there are five potentially fair reasons for dismissal. The University claimed the reason for Mr Reid's dismissal was redundancy – a reduced requirement on its behalf for employees to do work of a particular kind. It was said that instead of two lecturers it only needed one. Furthermore, that one person did not need to be a senior lecturer. A senior (grade 8) lecturer would be expected to undertake leadership roles in teaching and scholarship, research and knowledge exchange. Such functions would not be carried out by the new (grade 6) lecturer.
12. Mr Reid did not concede that there was a redundancy situation. He suggested that others were taken on by the University after his dismissal to do his job. I did not accept that was the case. I accepted the evidence of Prof Bhattacharya that his (Prof Bhattacharya's) proposals had been implemented. Mr Reid's colleague, Raz, was successful in applying for the new grade 6 position. He would now be undertaking such of the work that Mr Reid had formerly carried out that the University still required to be done.

13. I therefore concluded that Mr Reid's dismissal was by reason of redundancy and potentially fair. I then had to go on to consider if the University acted reasonably in treating redundancy as justifying his dismissal. There were a number of grounds upon which Mr Reid attacked the fairness of what the University did.
14. The first ground was that the pool (of himself and Raz) of those at risk should have been expanded.
15. The more usual use of the word "pool" in the context of redundancy arises when the employer has a requirement to reduce the number of employees doing a particular job but not to zero. In such a situation, criteria would routinely be applied to all those who did that job to determine who went and who stayed.
16. In this case, however, both Mr Reid and Raz would no longer be employed in their old jobs since the new grade 6 post was a different role. No question of selection within the pool arose since both members of the pool in question would lose their jobs.
17. Mr Reid said the pool should have included other lecturers, at lower grades. I had to ask whether the decision to restrict the pool to those two gentlemen was a reasonable one.
18. In his own evidence Mr Reid conceded that the other lecturers were likely to be doing things that he could not do and further that he was doing things they could not. For example, he could not lecture on naval architecture and a lecturer on electrics could not do his job. The risks in expanding the pool would be apparent from that analysis. Assuming the University continued to require a lecturer on naval architecture, if Mr Reid was pooled with the current incumbent, the result might be that he was retained, to undertake a role beyond his capability. It was, in my view, reasonable for the University to adopt the pool that it did.
19. Mr Reid next put in issue consultation. There were a number of meetings, and there was correspondence. Mr Reid complained that he was given inadequate information but I was satisfied he had quite enough to understand the case against him by, at the latest, 19 November 2019. He therefore was fully able to advance any position he wished before the deputy vice chancellor. The consultation was, in my view, adequate.
20. Mr Reid made a suggestion during consultation that he be retained on a 0.8 FTE contract. He was entitled to point out that the University did not return to him specifically to reject that suggestion. They should have informed him in terms that they had considered it and rejected it. It was clearly implicit, however, that it had been rejected by the fact that the recommendation went forward to the deputy vice chancellor in the terms that it did. Nor was it surprising that it would be rejected. Acceptance of Mr Reid's proposal would be very much at odds with the rationale for the reorganisation. The failure to expressly inform Mr Reid of the rejection of his proposal was unfortunate but in my view did not render the dismissal unfair.

21. Mr Reid suggested that while the removal of certain “strategic” responsibilities would mean that the newly created role would not be grade 8, nor was it grade 6. The nature of the role, he said, rendered it grade 7. That did not take him anywhere, however. It was a matter for the University what grade the new post would be. The relevant point was that it was of a different nature from the position he held.
22. The grading of the new post was something which could clearly affect Mr Reid. On any basis, if he was appointed to it there would be a reduction in status. Furthermore, since the position was two grades lower than his current post, there would be no pay protection. In those circumstances it was understandable that he did not apply for it. However, that did not impact upon the reasonableness of the University’s actions.
23. Mr Reid’s next allegation of unfairness related to the way the University sought to fill the new role. He suggested there was “bias” in that the description of the role was such that he would be disadvantaged by comparison with Raz.
24. Firstly there was a reference in the recruitment documents to a requirement to have or to be working towards a PhD. That did not apply to Mr Reid. However, nor did it apply to the successful candidate, Raz. In any event, if that was something that the respondent thought might be useful there was no reason for them not to refer to it.
25. More significantly, there was a reference made to the requirement that the successful applicant should be a chief engineer. Raz was a chief engineer but Mr Reid was not. However, the same observation applied in this respect as it did in relation to the preference expressed in relation to a PhD. The University reasonably believed that being a chief engineer would be useful for the successful candidate. Although its specification did disadvantage Mr Reid, there was no reason why the University should not express a preference for an applicant who was so qualified.
26. I therefore concluded that Mr Reid was dismissed by reason of redundancy and that the University acted reasonably in treating redundancy as justifying his dismissal. It followed that his dismissal was not unfair.

Employment Judge Reed  
Date: 27 October 2021

Reasons sent to the parties: 19 November 2021

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