EMPLOYMENT TRIBUNALS

Claimant		**Respondent**
Mrs Nicola Jacobs	**v**	**CVS (UK) Limited**

Heard at: Watford **On:** 11 and 12 November 2021

Before: Employment Judge Bedeau

Appearances:

For the Claimant: In person
For the Respondent: Mr D Chapman, Solicitor

JUDGMENT having been sent to the parties on 29 November 2021, and reasons having been requested in accordance with Rule 62(3) of the Rules of Procedure 2013, the following reasons are provided:

REASONS

1. In a claim form presented to the tribunal by the claimant on 14 June 2019, and in her further information served on 28 November 2019, the claimant made claims of constructive unfair dismissal and unauthorised deduction from wages.

2. In the response presented on 8 August 2019, and in the amended grounds of resistance dated 25 October 2019, the respondent denies the claims. It asserts that it had not conducted itself in such a way as to entitle the claimant to treat her contract of employment as at an end and claim constructive unfair dismissal. Further, that the deductions made in respect of the training costs for a course which the respondent said was not completed, and payments made while she was on sick leave, were authorised contractually.

3. A preliminary hearing was held on 20 May 2020, in private, by Employment Judge Kurrein, who, with the agreement of the parties, provided a list of the claims and issues arising from each claim. The Judge also issued case management orders. In respect of the constructive unfair dismissal claim, the term relied on by the claimant is the implied term of mutual trust and confidence, in that, she relies on the conduct of Mr Kevin Rodger**,** her line manager and the alleged lack of support from the Head of Department and Human Resources, particularly in February 2019. She must establish whether there was a fundamental breach of the implied term; whether she

resigned in consequence of the breach, and did she delay so as to waive the breach?

4. In relation to her unauthorised deduction from wages claim, had the respondent made deductions from the claimant's pay in respect of training costs and/or sick pay?

5. Were those deductions authorised?

The evidence

6. I heard evidence from the claimant who did not call any witnesses. She told me that she had in mind calling four individuals as witnesses, but they had signed settlement agreements with the respondent making it difficult for them to give evidence on her behalf. I informed her that I could only make findings of fact on the evidence presented.

7. On behalf of the respondent, I heard evidence from Mr Neil Levitt, Regional Director, and from Mr Duncan Francis, who was formally Director of Health and Safety and now is Director of Crematorium Division.

8. In addition to the oral evidence the parties produced a joint bundle of documents comprising more than 191 pages.

Finding of facts

9. Having regard to the evidence both documentary and oral, I made the following material findings of fact.

10. The respondent is described as a mixed practice corporate veterinary group in the United Kingdom. It employs more than 6000 people at its 400 sites in the United Kingdom. On 21 April 2009, the claimant commenced her employment with the respondent as a Veterinary Nurse. She is a Registered Veterinary Nurse, and she has set out in her witness statement her qualifications in that regard. She told me that at one point she was responsible for a group of Veterinary Nurses, some of whom were under training agreements. She acknowledged that she was familiar with the provisions in a training agreement.

11. In relation to her progress and changes in her responsibilities, in September 2016, she was on a nine months temporary contract for the role of part-time Health and Safety Compliance Officer and was also engaged in her part-time role as a Veterinary Nurse. She was retained at the end of the contract period and was taken on as a full-time member of the Health and Safety team in September 2017. In that regard she carried out health and safety compliance audits and other relevant checks in her region. She worked two days a week as a Health and Safety Administrator, and the remaining three days as a Health and Safety Compliance Officer.

12. She worked alongside the Regional Health and Safety Advisor in order to generate and promote a positive health and safety culture. She was also engaged in the control of occupational risks across the CVS Group. Her primary responsibilities were to ensure that by carrying out compliance audits and relevant RCVS Practice Standards Scheme checks, health and

safety legislation was being adhered to. She assisted the Regional Health and Safety Advisor in implementing, monitoring, and reviewing protective and preventative measures.

13. In relation to her contract of employment which she signed on 7 September 2017, with regard to her job title being Health and Safety Administrator, in clause 12.1 it sates the following:

> "In return for any CPD/Training commitment that CVS makes a financial contribution towards, we would expect you to remain in employment with the company for 12 months from the completion of the CPD/training course. Should you leave the company for any reason during or within 12 months of completing a course, you shall be liable to pay the total company financial contribution to that course, less 1/12th of this amount for each whole month you remain employed by the company between completing the relevant course and leaving the company's employment." (page 39 of the joint bundle)

14. In relation to sick pay, clause 11 sets out the respondent's requirements. Of interest is clause 11.5 which states:

> "Subject to certain limits and conditions, while you are off sick you may be entitled to receive statutory sick pay (SSP). In addition, after successful completion of your probationary period, for the first two weeks of authorised absence in any rolling 52 week period you shall also be paid the difference between your full salary and any amounts of statutory sick pay received during such period. There after you shall receive statutory sick pay only." (38)

15. The claimant said that she had been bullied by Mr Kevin Rodger, Regional Health and Safety Advisor. She wrote in paragraph 21 of her witness statement how she, allegedly, had been treated by him. She wrote that up to 21 November 2018, there have been various incidents which had weighed her down which affected her psychological wellbeing. She identified the perpetrator as Mr Rodger.

16. In paragraph 22 she wrote:

> "On 21 November I was at home and I received email from a site that had been flooded. Rachel had asked me to send them a form. For ease, I scanned it on to sharepool and let everyone know what had happened. At 4.40pm Kevin called me, to inform me of what had happened at a meeting he was attending that day with Karen and Rachel. Kevin asked me how my day had been and I informed him that I had sent an email to the whole team letting them know that an accident blank form was now on Pulse in case any of their sites needed one when waiting for a new book to be delivered. During the call he asked "Whys that what's happened" so I told him that a site had asked for a blank sheet so I sent them one and then uploaded onto the portal as directed by Rachel. He asked which site had asked and I told him. His tone of voice changed and he shouted to me "Nicky (Tone was very stern with a lang pause) what have you sent to them?" I said "Kevin have I done something wrong?" I said I scanned the form to them. He said "We are having murders with that practice" and that I shouldn't have done that. I wasn't aware of that I was asked by Rachel to do so and I did what I was told by the Head of Health and Safety."

17. She said that because of Mr Rodger's treatment of her, the manner in which he spoke to her and what he said to her, she felt worthless and degraded as he had questioned her capabilities.

18. In an email sent on the same day, she wrote to Ms Rachel Marriott, Head of Health and Safety, giving her account of Mr Rodger's conversation with her and how she felt about raising concerns about him. In the first paragraph, she wrote:

> "I'm so sorry that I'm having to write this email but I'm at my wits end. I really do not want to get Kevin into any trouble as I do think he is a nice guy and I don't want to hurt his feelings and if this gets back to him I know he will feel hurt but I am struggling with him being my line manager. There have been a few things have been said to me lately that to be honest have really offended me. I'm a strong person but the constant dig are just getting too much for me to bear with my head the way it feels at the moment I can't take any more." (52)

19. She went on to raise a matter about being asked by Mr Rodger to carry out work she was unable to do because of childcare commitments. What transpired, according to the claimant, after 21 November, was that Ms Marriott took the decision, not to allow Mr Rodger to continue to be the claimant's line manager.

20. When the claimant was asked by Mr Chapman in cross-examination whether she was content with that decision, she stated that she was. However, she went on to give an account in December 2018 about which she was asked by Ms Marriott to investigate an incident involving a pregnant member of staff who had suffered from an electric shock. She was contacted by Mr Rodger and she informed him that she was conducting an investigation into the incident. She said that he spoke to her in a very condescending tone, saying that she should be careful how she spoke to the injured member of staff, and that she should not be doing that work as she was not an adviser. The clamant reported the conversation to Ms Marriott.

21. It is not clear what action, if any, was taken by Ms Marriott, nor is there a record of any responses to the allegation from Mr Rodger. It was difficult to make clear findings of fact in relation to Mr Rodger's alleged behaviour towards the claimant.

22. In January 2019 Mr Ben Gyford, Health and Safety Advisor, was appointed as the claimant's line manager and it appeared from her evidence that he had a good working relationship with her.

23. In January of that year, Ms Marriott left her employment with the respondent. According to the claimant, that decision appeared to have been a sudden one, taking her and the Health and Safety team somewhat by surprise. In her evidence she said she felt unnerved by that. She stated that the atmosphere in the team was toxic and that members of the team were worried about their jobs.

24. The statement by the claimant that the atmosphere was toxic and that members were worried out their jobs is relevant to what happened later, and I will come to that in a moment or two.

25. At a team meeting in January 2019, the date is not entirely clear, those joining by telephone were the claimant; Ms Kelly Massey, Compliance Officer South; Mr Gyford; Alex Lomas, Compliance Officer South West; Ms

Karen Hepplestone, Health and Safety Advisor North, and Mr Duncan Francis, as Director.

26. The claimant alleges that Mr Rodger kept referring to her and to Ms Massey as Compliance Officers and that she and Ms Massey were offended by that. She also referred to an incident on or around 28 January 2019 concerning a reply to an email from the Health and Safety Executive on 28 January 2019. An email was sent to the respondent's Health and Safety Administration email account and what the person from the Health and Safety Executive wrote was to the effect that he was currently making enquiries into an asbestos incident that reportedly took place at Beechwood Veterinary Surgery, Stoke on Trent, on 12 June 2018. He stated that he had sent Ms Marriott an email following his enquiries and discussions last December. He was waiting for a response. He then wrote that he had decided to send an email, 28 January 2019, to the respondent's mailbox. (54)

27. Later that evening, at 10.34, Mr Rodger sent the email from HSE to Ms Karen Hepplestone, Health and Safety Advisor. The claimant cites that as another example of Mr Rodger interfering with her work.

28. The account given by the respondent, in particular by Mr Levitt, was to the effect that the Health and Safety Administration email account is a shared account to which all or any member of the Health and Safety team had access. The HSE email required a prompt reply and that there was nothing untoward or inappropriate in Mr Rodger replying in the way he did by forwarding the email to Ms Hepplestone. Indeed, based on the content of the email, it was clear that the HSE wanted some sort of response as the last correspondence sent was in December 2018.

29. Having looked at that email and the response to it and having considered the evidence given by the respondent's witnesses, I do find that there was nothing approaching what the claimant had asserted as an interference by Mr Rodger in her work. This was a case that required some sort of immediate response and that is what he did.

30. The claimant made references to various incidents between 29 and 31 January 2019 which do not add much to her claim of a fundamental breach of the implied term.

<u>Offer of employment with the Dogs Trust</u>

31. On 7 February 2019, she was contacted by a recruitment agency because she was on Linkedin about a job opportunity. It was work at an animal charity as a Health and Safety Officer. The salary was £30,000 and according to the agency, it had an excellent package. (54A)

32. The claimant told me that at that time she was not looking for work but was just exploring other opportunities elsewhere as a Health and Safety Officer in the hope that it may improve her bargaining position internally with the respondent. It is very difficult to see based on the evidence she gave me, why she was not interested in a job opportunity of Health and Safety Officer at or around 7 February 2019. I say that for this reason. She repeatedly said in her evidence that the atmosphere in the Health and Safety team was toxic and that members of the team were unnerved by the fact that Ms

Marriott had left, and they were not sure as to why because her departure was sudden. I am satisfied that the claimant was exploring, in February 2019, the possibility of taking up another job outside of the respondent. I am further supported in that view because claimant said to me that her friend, Ms Kelly Massey, had informed her that she was likely to be leaving the respondent.

33. Taking all those factors into account, I do find that the claimant was considering her future prospects with the respondent knowing that key individuals who have assisted her, had left, or would be leaving. She no longer considered work in the Health and Safety team to be congenial and to her liking.

34. On 11 February 2019, at 08.41 in the morning, she received a further email from the recruitment company. In bold there is the reference "First stage interview confirmation". The writer wrote: "Hello Nicky, Following our discussions please take this as confirmation of your interview on 12 February 2019 at 1pm." (54F - G)

35. On the same day there was a team conference call meeting. In attendance were Mr Francis and other members of the team including Mr Rodger. The claimant alleges that during that meeting, she was belittled and humiliated by Mr Rodger, and this was in the presence of her work colleagues. The subject matter was the time it was taking her to complete her IHASCO reports and at one point Mr Francis said to Mr Rodger that that matter would be discussed between them after the meeting.

36. After the meeting the claimant said that she became aware that Mr Ben Gyford was about to leave his employment after about a month working for the respondent.

37. The picture was emerging of those with whom the claimant had a good working relationship, were leaving the Health and Safety team and the respondent.

38. On 11 February, she called and spoke to Mr Francis. She said to him that as the Head of Health and Safety had left there was no replacement and as Mr Gyford was about to leave, she felt vulnerable because Mr Rodger, according to her, would continue to belittle and humiliate her. He said that Mr Francis' response was tom say that Mr Rodger would be mortified by that allegation. There does not appear to be a dispute about what Mr Francis said to her. However, what he advised her to do was to speak to Human Resources.

39. On 17 February 2019, she was sent an email from the recruitment agency. This was at five minutes past five that evening, and it was to inform her of the second stage interview which was due to take place on 19 February at 11 o clock in the morning. It identified that the employee company as the Dog's Trust. (54G)

40. On 18 February, the claimant sent an email to Ms Sarah Verzijl, Human Resources Business Partner, employed by the respondent. She asked for a chat.

41. On 19 February, she sent an email message from her phone to Mr Gyford stating that she was unwell and would let him know when she felt better. Being new to his role he did not know what to do with the message so it was forwarded on to Mr Francis. The claimant said in evidence that she was suffering from migraines at the time.

42. The following day, 20 February 2019, an email was sent to her from the recruitment company congratulating her on her successful application for the post. It stated:

> "Following our conversation, I am delighted to confirm that you have been offered the position with the Dogs Trust. Congratulations Nicola, this is fantastic news."

43. Her start date was to be confirmed. Her hours of work would be 35 hours a week. Her salary was £30,000. An account was given of her holiday entitlements and other benefits. (57A)

44. From the above sequence of events, it would appear that she attended the interview when, according to her, she was unable to attend work as she was ill. That fact was not disclosed to the respondent by her. She was seeking better paid employment as her salary with the respondent at the time was £26,322.12 gross.

45. On 20 February she called Mr Francis and said that she had been signed off by her doctor. She asked about being made redundant and redundancy pay. He responded by saying that she was not in a redundancy situation. As she had concerns about Mr Rodger's behaviour towards her, he suggested that he should arrange a meeting between her and Mr Rodger, but that was rejected by her. He also suggested that he should mediate between them, but that too was rejected. He, therefore, advised her to contact Human Resources to discuss her concerns about Mr Rodger's alleged treatment of her. He also informed her that the matter could be discussed on or after the next team meeting.

46. I was told that on 21 February 2019, the claimant accepted the position with the Dogs Trust.

47. She said that she spoke to Ms Verzijl, who behaved in a very off-handed manner towards her, saying that she should either lodge a grievance or leave. That conversation, if it did occur in that way, was not relayed to Mr Francis as it was Mr Francis who, on at least two occasions, advised her to contact Human Resources. This was an instruction by a Director to which Verzijl had to follow.

48. Later, on 21 February, the claimant informed Mr Francis that she had decided to resign and that she was resigning in circumstances in which she did not have a job nor a salary. I do not find that such was the case. She was offered and either accepted or was due to accept a new job with the Dogs Trust.

49. On 22 February, she signed her contract of employment with the Dogs Trust and commenced employment on or around 1 April 2019. Her employment with the respondent ended on 22 March 2019.

50. She lodged a grievance on 4 March 2019. A meeting was held on the 19 March and an outcome letter was sent, received by the claimant on 9 April 2019 dismissing her grievance. She appealed but was unsuccessful. (70, 77 – 83, 113 – 128)

Training

51. In relation to training, it is not disputed that the claimant signed up for the NEBOSH Health and Safety Course in 2018. She said that she finished the course in August 2018, but upon further questioning, and having had the documents in the joint bundle put to her, it was clear that the claimant had not completed that course until May 2019. She resigned on notice in her letter dated 22 February 2019, in which she wrote to Mr Francis:

> "Dear Duncan,
>
> Following on from our conversation and much thought I have decided to resign from my role. My plan is for my last day to be with the business on Friday 22 March 2019 and I would like to take my accrued holiday before my leaving date. I will be returning to my normal duties on Wednesday 27th following my time off sick and would like to work my notice under Karen Hepplestone."

52. In fact, the claimant did not return to work, instead she remained off work on sick.

53. The document we have seen made reference to the claimant having completed the course, but that document was sent well after she had left her employment. As I have said, and I do find, that she completed the course in or around May 2019.

Sick pay and wages

54. Notwithstanding the claimant had offered to work her notice, she was signed off work due to sickness and did not return. She received statutory sick pay during her absence. She disputed the payment details on termination of her employment. The respondent sent her an email explaining the calculations together with a spreadsheet. The respondent having paid her full pay for February then was required to claw back the excess because during that time and even into March, she was off work ill. She was only entitled to two weeks full contractual sick pay, thereafter statutory sick pay. (183A – 183D)

Submissions

55. I heard submissions form Mr Chapman and from the claimant. As those submissions are relatively recent, I do not propose to rehearse them here having regard to rule 62(5) Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

The law

56. Section 95(1)c Employment Rights Act 1996, provides,

> "(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."

57. It was held by the Court of Appeal in the case of Western Excavating (ECC) Ltd-v-Sharp [1978] IRLR 27, that whether an employee is entitled to terminate his contract of employment without notice by reason of the employer's conduct and claim constructive dismissal must be determined in accordance with the law of contract. Lord Denning MR said that an employee is entitled to treat himself as constructively dismissed if the employer is guilty of conduct which is a significant breach going to the root of the contract of employment, or which shows that the employer no longer intends to be bound by one or more of the essential terms of the contract. The employee in those circumstances is entitled to leave without notice or to give notice, but the conduct in either case must be sufficiently serious to entitle him to leave at once.

58. It is an implied term of any contract of employment that the employer shall not without reasonable cause conduct itself in a manner likely to destroy or seriously damage the relationship of trust and confidence between the employer and employee, Malik-v-Bank of Credit and Commerce International [1997] IRLR 462, House of Lords, Lord Nicholls.

59. In the case of Lewis-v-Motorworld Garages Ltd [1985] IRLR 465, the Court of Appeal held in relation to the "last straw" doctrine that,

> "…the last action of the employer which leads to the employee leaving need not itself be a breach of contract; the question is, does the cumulative series of acts taken together amount to a breach of the implied term?", Glidewell LJ.

60. Dyson LJ giving the leading judgment in the case of London Borough of Waltham Forest-v-Omilaju [2005] IRLR 35, Court of Appeal, held:

> "A final straw, not itself a breach of contract, may result in a breach of the implied term of trust and confidence. The quality that the final straw must have is that it should be an act in a series whose cumulative effect is to amount to a breach of the implied term. I do not use the phrase 'an act in a series' in a technical sense. The act does not have to be of the same character as the earlier acts. Its essential quality is that, when taken in conjunction with earlier acts on which the employee relies, it amounts to a breach of the implied term of mutual trust and confidence. It must contribute something to that breach, although what it adds may be relatively insignificant.
>
> 61. I see no need to characterise the final straw as 'unreasonable' or 'blameworthy' conduct. It may be true that an act which is the last in a series of acts which, taken together, amounts to a breach of the implied term of trust and confidence will usually be unreasonable and, perhaps, even blameworthy. But, viewed in isolation, the final straw may not always be unreasonable, still less blameworthy. Nor do I see any reason why it should be…. .
>
> 62. If the final straw is not capable of contributing to a series of earlier acts which cumulatively amount to a breach of the implied term of trust and confidence, there is no need to examine the earlier history to see whether the alleged final straw does in fact have that effect.", pages 37 - 38.

60. The test of whether the employee's trust and confidence has been undermined is an objective one, Omilaju.

61. In the case of Tullett Prebon plc v BGC [2011] IRLR 420, on the issue of whether the first instance judge had applied a subjective test rather than an objective one to the actions of the alleged contract breaker, the Court of Appeal held, reading from the headnote,

> "The question of whether or not there has been a repudiatory breach of the duty of trust and confidence is a 'question of fact for the tribunal of fact'. It [is] a highly specific question. The legal test is whether, looking at all the circumstances objectively, that is from the perspective of a reasonable person in the position of the innocent party, the contract-breaker has clearly shown an intention to abandon and altogether refused to perform the contract. The issue is repudiatory breach in circumstances where the objectively assessed intention of the alleged contract breaker towards the employees is of paramount importance.
>
> In the present case, the judge had approached the issue correctly. He had not applied a subjective approach. He had objectively assessed the true intention of Tullett and had reached the conclusions that their intention was not to attack but to strengthen the employment relationship. That was a permissible and correct finding, reached after a careful consideration of all the circumstances which had to be taken into account in so far as they bore on an objective assessment of the intention of the alleged contract breaker."

62. In relation to unauthorised deduction from wages, I do take into account s.13 of the Employment Rights Act 1996 and the provisions relevant to unauthorised deductions from wages. In particular, those provisions that entitles a respondent to deduct various sums of money if those deductions have been authorised in a document which would include a contract of employment.

63. Section 13 Employment Rights Act 1996, proscribes any deductions from a worker's wages unless it is,

> "…required or authorised by virtue of a statutory provision or a relevant provision in the worker's contract or the worker has previously signified in writing his [or her] agreement or consent to the making of the deduction."

64. Section 27 defines wages as any specified sums payable to a worker in connection with his or her employment.

Conclusion

Constructive unfair dismissal

65. In relation to constructive unfair dismissal claim, I do have regard to whether the respondent had engaged in conduct that entitled the claimant to treat her contract of employment with it as at an end and resign.

66. She quite candidly said that in November 2018 the decision was taken to no longer have Mr Rodger as her line manager and she accepted that decision. She described him as a nice guy and did not want to hurt his feelings. By the end of 2018 he was no longer her line manager.

67. The HSE's email in January 2019, required an urgent response. It was not sent to the claimant but to the Health and Safety Administration's email inbox to which all in the team had access. I found Mr Rodger's response to be appropriate and reasonable. He was not interfering with the claimant's work.

68. In relation to the conversation during the team meeting on 11 February, and her conversations with Mr Francis which led to Mr Francis advising her to contact Human Resources, there was, in my view, nothing inappropriate about making that suggestion. The claimant had her grievances against Mr Rodger. Had she followed Mr Francis' advice and lodged a formal grievance, Human Resources would have set in train the respondent's grievance process**,** as it did when she submitted a grievance on 4 March 2019, after she left her employment. According to the claimant, Ms Verzijl said to her that she could lodge a grievance, or she could leave. The fact of the matter is that the claimant did not follow the advice given by Mr Francis. He was not the person to deal with grievances, that must follow the accepted procedure by the respondent's Human Resources department. In fact, Mr Francis went beyond that suggestion and even proposed mediating between her and Mr Rodger. The claimant rejected it because she believed that Mr Rodger had a close affinity to Mr Francis. That does not appear to be the case having listened to Mr Francis' evidence today.

69. Taking into account the fact that Ms Marriott caused Mr Rodger to no longer be the claimant's line manager was something positive the respondent had done; that Mr Rodger responded to the HSE email quickly and appropriately; that Mr Francis suggested a meeting between the claimant and Mr Rodger to see whether matters could be discussed and resolved, but was rejected by the claimant; that he then offered to mediate, which again was rejected by the claimant; he then suggested that she should contact Human Resources and lodge a grievance, she did not do that either, I do not conclude that the respondent's conduct was such that it breached, in a fundamental way, the implied term of mutual trust and confidence. Accordingly, that claim is not well-founded and is dismissed.

70. I have also considered what was the real reason for the claimant's resignation and I have concluded that by late January/early February 2019, she was aware that the atmosphere in the Health and Safety team was toxic. She was also aware that key individuals who had supported her had left or were leaving. She was aware that there were concerns in the team about their future in the company and the possibility of redundances. She, fortuitously, was informed by a recruitment agency about a position at the Dogs Trust. She applied and was interviewed. The interview was not disclosed to Mr Gyford, her line manager, nor to Mr Francis during her discussions with him. The real reason, I find, was that she had found employment at a time when she was anxious to leave as others were leaving, or had left, the team and the respondent. She no longer wanted to work, in her view, in a toxic environment and she decided to send to Mr Gyford an email stating that she was ill and unable to work when, in fact, she had decided to travel to London for the interview. The salary offered by the Dogs Trust was over £3,000 more a year than what she was earning working for the respondent. On that basis, the constructive unfair dismissal claim is not well-founded and is dismissed.

Unauthorised deductions from wages

71. In relation to the claw back of the training costs for the NEBOSH Course, I am satisfied that that course was not completed, twelve months prior to the claimant's resignation on 22 February 2019, but was completed after she had left employment. Applying clause 12 of her contract of employment, the respondent was entitled to claw back its training costs. In reality, the Dogs Trust was benefiting from the training she had received.

72. In relation to sick pay being clawed back, I am satisfied, having had the matter explained to me several times, that clause 11.5 of her contract of employment was properly applied in her case and the relevant deductions made. She received a covering letter and spreadsheet explaining the respondent's decision. What this means, therefore, is that the claimant's unauthorised deduction from wages claim is also not well-founded and is dismissed.

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Employment Judge Bedeau

Date: 30 December 2021

Judgment sent to the parties on

13/1/2022

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For the Tribunal office