



EMPLOYMENT TRIBUNALS

Claimant: Mr A McCollum

Respondent: Honiton Town Council

Heard at: Bristol Employment Tribunal via Cloud Video Platform
On: 9-10 February 2022

Before: Employment Judge Youngs

Representation

Claimant: Mrs C Collins of Counsel

Respondent: Mr R Johns of Counsel

JUDGMENT

JUDGMENT having been given 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

Claims and parties

- 1) By a claim form presented on 13 May 2021 (case number 1401885/2021), the Claimant brought a claim of constructive unfair dismissal.
- 2) The Respondent resists the claim.

Procedure, documents and evidence heard

- 3) The hearing initially commenced on the Video Hearing platform, but due to witnesses not being able to connect proceeded remotely via Cloud Video Platform.
- 4) The Claimant was represented by Mrs C Collins of counsel, and he gave evidence on his own behalf. The Respondent was represented by Mr R Johns of Counsel. Evidence was given by Mrs Marlow, the Deputy Clerk of the Respondent.
- 5) Each witness had a written statement that stood as their evidence in chief. I also had before me an agreed bundle of documents.

6) I took into account the evidence and the oral submissions of both parties.

The issues

7) At the start of the hearing I discussed the issues with the parties to clarify the list of issues prepared by the parties. The parties' list of issues listed a number of alleged breaches of contract or "straws", some of which were on the face of it acts of the Claimant not the Respondent. I therefore went through this list with the parties as a result of which the issues were agreed to be as follows:

7.1 Did that breach the implied term of trust and confidence by:

- a) The treatment of the Claimant by Councillors, the corporate body of the Respondent, following the Claimant's appointment to East Devon District Council;
- b) Failing to deal with the Claimant's subject access request of 28 January 2020;
- c) Bullying and harassment by Cllr Zarczynski and Cllr Taylor (on dates unknown but prior to July 2020);
- d) Failing to deal with the Claimant's grievance of 10 July 2020;
- e) Failing to deal with the Claimant's subject access request of 15 October 2020;
- f) Failing to ensure that Councillors were to play no part in the handling of the Claimant's employment;
- g) Failing to deal with the Claimant's grievance of 28 October 2020;
- h) Abuse of the Claimant by the Assistant Market Manager at the market on 12 December 2020;
- i) Failing to take appropriate action to prevent further abuse by the Assistant Market Manager;
- j) Abuse of the Claimant by the Assistant Market Manager at the market on 15 December 2020;
- k) Abuse of the Claimant by the Assistant Market Manager at the market on 19 December 2020. This is cited as the law straw.

7.2 The Tribunal will need to decide:

- a) Whether the Respondent behaved in a way that was calculated or likely to destroy trust and confidence between the Claimant and the Respondent; and
- b) whether it had reasonable and proper cause for doing so.
- c) If so, did the Claimant resign in response to the breach?
- d) Did the Claimant affirm the breach before resigning? The Tribunal will need to decide whether the Claimant's words or actions showed that they chose to keep the contract alive after the breach.
- e) If the Claimant was constructively dismissed, what was the Respondent's reason for the breach of contract (and therefore the reason for dismissal)?
- f) If it was a potentially fair reason, did the Respondent act reasonably in all the circumstances in dismissing treating it as sufficient reason to dismiss the Claimant?
- g) If the Claimant's dismissal is unfair:
 - (i) what is the Claimant's basic award and what compensation should be awarded?
 - (ii) Has the Claimant fully mitigated his losses?
 - (iii) Would the Claimant have retired in September 2021 in any event?
 - (iv) Should the Claimant's compensation be reduced in taking into his account his contributory conduct?
 - (v) Should there be any reduction to compensation on the basis of a likelihood that the Claimant would have been dismissed in any event or

due to his contributory conduct?

- 8) During the discussion on the issues, it was confirmed that the term alleged to have been breached by the Respondent was the implied term of trust and confidence.
- 9) The Respondent confirmed during the hearing that it was not pursuing an allegation that the Claimant would have been dismissed due to misconduct, as alleged in the Response.

Findings of fact

- 1) The Claimant was employed by the Respondent from 24th July 2010 to 3 February 2021, most recently as the Town Development Manager.
- 2) In May 2019 the Claimant was elected as Councillor of St Pauls Ward for East Devon District Council. He remained employed by the Respondent.
- 3) Various of the Respondent's councillors expressed concern that there was a conflict of interest between the Claimant's role as Town Development Manager and his election as a Councillor. External advice was properly taken on this, and the Respondent subsequently accepted the resultant advice that there was no conflict of interests. As confirmed by Mrs Marlow, Deputy Town Clerk, in her evidence, two of the Councillors, however, did not accept this advice and continued to believe that the Claimant had a conflict of interest.
- 4) The Claimant alleges that this concern escalated to bullying of the Claimant and he believed that a number of Councillors, two in particular, wanted the Claimant to be removed from his post.
- 5) The Claimant refers to a personal attack on him by Councillor Taylor, although details of what this attack entailed were not presented to the Tribunal.
- 6) On 5 August 2019 the Claimant wrote to the Respondent about this, and now refers to this as a grievance.
- 7) On 28th January 2020, the Claimant submitted a Data Subject Access Request ("DSAR"). The Respondent subsequently declined to provide the information sought on the basis of advice it received.
- 8) In or around May and before 9 June 2020, there were discussions about planning to re-open the Market following the lockdown imposed due to the COVID-19 pandemic. How this issue was dealt with triggered the Claimant to commence a period of sick leave on 9th June 2020.
- 9) His fit note was originally for one month, but this was extended approximately monthly covering a period of 6 months. The Claimant's fit notes initially referred to the Claimant having a "stress related reaction", but this later changed to "work related stress".
- 10) During the Claimant's period of sickness absence, the Claimant's (acting) line manager, Mrs Marlow, Deputy Town Clerk, kept in touch with the Claimant, for example corresponding with him about his fit notes and enquiring as to his health. The Claimant had a good relationship with the Deputy Town Clerk throughout the time period relevant to this claim.
- 11) On 10th July 2020 the Claimant raised a grievance. This included reference to the Claimant having been "pushed ... aside" under the instructions of The Mayor J

Zarczynski to follow the Market Assistant Carl Cracknell and Cllr Taylor [COVID] plan without even giving him the chance to participate or explain his views”.

- 12) On 19 July 2020 the Claimant raised a Code of conduct complaint with EDDC. The Claimant alleged that Cllr Taylor (in summary) had been disrespectful and bullying. The detail of what was investigated was not before the Tribunal. However, there were clearly aspects of the grievance and of the Code of Conduct complaint that were the same, in particular the Claimant refers to “numerous false allegations made against [him] and made publicly via media news, social media and blatant verbal abuse via Cllr Taylor and embarrassment in the high street in front of the public regarding the market (Witnessed)”. Taking into account the contents of the documents before the Tribunal relevant to the Code of Conduct complaint, this summary of alleged wrongdoing by Cllr Taylor related to actions and/or statements taken in response to the COVID-19 pandemic, therefore dating around March – June 2020.
- 13) Following an independent investigation on 14 October 2020 the investigation report into the Claimant’s Code of Conduct complaint was published and two of the Claimant’s complaints were upheld, namely that:
 - a) At the meeting in the high street and through the comments in his Covid Compliance Proposal and associated documents, Cllr Taylor was disrespectful to Mr McCollum; and
 - b) Through his conduct during the exercise to re-open the market and the comments made in his Covid Compliance Proposal and associated documents, Cllr Taylor was bullying to Mr McCollum
- 14) This was an independent report, of which no criticism was levied, and it confirms that the Claimant was bullied during his employment prior to his sick leave. The incidents connected with the COVID response triggered the Claimant’s sick leave, grievance and Code of Conduct complaint.
- 15) The Claimant submitted a further DSAR on 15th October 2020.
- 16) The Respondent referred the Claimant to occupational health, and he attended an appointment on 23 October 2020. A report was subsequently produced, dated 28th October 2020, and received by the Respondent on 3rd November 2020.
- 17) The Claimant wrote to the Respondent on 28th October 2020. He referred to the lack of response to his 10th July 2020 grievance, started a dialogue about returning to work, and suggested measures that he considered should be put in place protect him from bullying and harassment.
- 18) There followed discussions between the Claimant and the Deputy Town Clerk about how his grievance could be managed. The Claimant’s complaint was not against all members, however, the Claimant refused to allow Mrs Marlow to share the grievance with Council Members. Mrs Marlow could not act on the grievance and could not instruct a third party to deal with it without the approval of members. There was a stalemate. Mrs Marlow was not acting unreasonably.
- 19) The Claimant was invited to and attended a formal sickness review meeting on 4 December 2020. At this meeting, next steps were agreed. The Claimant was informed that his July grievance was going to be investigated by the HR Services Partnership. The Claimant was content with that course of action.
- 20) On 12th December 2020, there was an altercation in the Market between the Claimant (who was off sick at this time but who was at the Market) and Mr Cracknell,

the Assistant Market Manager (who was working at the Market). The Market Manager was sub-ordinate to the Claimant. Both the Claimant and the Assistant Market Manager complained about each other following this incident.

- 21) Mrs Marlow told the Claimant that she would speak with Mr Cracknell about this, and she did so.
- 22) In terms of dealing with the issue raised by the Claimant in respect of Mr Cracknell, Mrs Marlow told the Claimant that in light of the close proximity to Christmas and the few working days she had left, she would deal with the matter in the New Year. She told the Claimant that Mr Cracknell had agreed to mediation. The Claimant also agreed to this. It was suggested to the Claimant that he try to avoid Mr Cracknell in the interim period.
- 23) The Claimant went to Honiton town on 19 December, where there was a further incident between him and Mr Cracknell where Mr Cracknell insulted the Claimant with finger gestures and mouthed "fucking wanker". This incident is referred to by the Claimant as the "last Straw".
- 24) The altercations occurred because of the poor relationship between the Claimant and Mr Cracknell.
- 25) The Claimant attended work on following this incident in December 2020 prior to his Christmas break.
- 26) The Claimant resigned on 4th January 2021. The Claimant worked his notice.
- 27) On 8th February 2021, the Claimant commenced alternative employment. He left this role on 10th September 2021, as the business was in trouble and he "saw the writing on the wall". The Claimant drew down his pension as a source of income.

The Law

- 28) Section 95(1)(c) of the Employment Rights Act 1996 (ERA) states that there is a dismissal when the employee terminates the contract, with or without notice, in circumstances such that he or she is entitled to terminate it without notice by reason of the employer's conduct. That is commonly called constructive dismissal.
- 29) In the leading case in this area, *Western Excavating (ECC) Ltd v Sharp* 1978 ICR 221, CA, the Court of Appeal ruled that, for an employer's conduct to give rise to a constructive dismissal, it must involve a repudiatory breach of contract. As Lord Denning MR put it:

'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, then the employee is entitled to treat himself as discharged from any further performance. If he does so, then he terminates the contract by reason of the employer's conduct. He is constructively dismissed'
- 30) In order to successfully claim constructive dismissal, the employee must establish that:
 - a) there was a fundamental breach of contract on the part of the employer;
 - b) the employer's breach caused the employee to resign;
 - c) the employee did not affirm the contract and lose the right to claim constructive

dismissal.

- 31) A course of conduct can cumulatively amount to a fundamental breach of contract entitling an employee to resign and claim constructive dismissal following a 'last straw' incident even though the last straw by itself does not amount to a breach of contract — *Lewis v Motorworld Garages Ltd* 1986 ICR 157, CA. However, an employee is not justified in leaving employment and claiming constructive dismissal merely because the employer has acted unreasonably. This was confirmed in *Bournemouth University Higher Education Corporation v Buckland* 2010 ICR 908, CA, where the Court upheld the decision of the EAT that the question of whether the employer's conduct fell within the range of reasonable responses is not relevant when determining whether there has been a constructive dismissal.
- 32) In *Omilaju v Waltham Forest London Borough Council* 2005 ICR 481, CA, the Court of Appeal explained that the act constituting the last straw does not have to be of the same character as the earlier acts, nor need it constitute unreasonable or blameworthy conduct, although in most cases it will do so. But the last straw must contribute, however slightly, to the breach of the implied term of trust and confidence. An entirely innocuous act on the part of the employer cannot be a final straw, even if the employee genuinely, but mistakenly, interprets the act as hurtful and destructive of his or her trust and confidence in the employer. The test of whether the employee's trust and confidence has been undermined is objective. And while it is not a prerequisite of a last straw case that the employer's act should be unreasonable, it will be an unusual case where conduct which is perfectly reasonable and justifiable satisfies the last straw test.
- 33) In terms of causation, that is the reason for the resignation, a tribunal must determine whether the employer's repudiatory breach was 'an' effective cause of the resignation. However, the breach need not be 'the' effective cause — *Wright v North Ayrshire Council* 2014 ICR 77, EAT. As Mr Justice Elias, then President of the EAT, stated in *Abbycars (West Horndon) Ltd v Ford* EAT 0472/07:
- "the crucial question is whether the repudiatory breach played a part in the dismissal", and even if the employee leaves for 'a whole host of reasons', he or she can claim constructive dismissal 'if the repudiatory breach is one of the factors relied upon"*
- 34) Thus, where an employee leaves a job as a result of a number of actions by the employer, not all of which amounted to a breach of contract, they can nevertheless claim constructive dismissal provided the resignation is partly in response to a fundamental breach.
- 35) If the employee waits too long after the employer's breach of contract before resigning, he or she may be taken to have affirmed the contract resulting in the loss of the right to claim constructive dismissal. In the words of Lord Denning MR in *Western Excavating (ECC) Ltd v Sharp* 1978 ICR 221, CA, the employee
- "must make up his mind soon after the conduct of which he complains: for, if he continues for any length of time without leaving, he will lose his right to treat himself as discharged"*
- 36) This was emphasised again by the Court of Appeal in *Bournemouth University Higher Education Corporation v Buckland* 2010 ICR 908, CA, although Lord Justice Jacob did point out that, given the pressure on the employee in these circumstances, the law looks very carefully at the facts before deciding whether there really has

been an affirmation. An employee's absence from work during the time he or she was alleged to have affirmed the contract may be a pointer against a genuine affirmation.

- 37) The Court of Appeal in *Kaur v Leeds Teaching Hospitals NHS Trust* 2019 ICR 1, CA, held that, in last straw cases, if the last straw incident is part of a course of conduct that cumulatively amounts to a breach of the implied term of trust and confidence, it does not matter that the employee had affirmed the contract by continuing to work after previous incidents which formed part of the same course of conduct. The effect of the last straw is to revive the employee's right to resign.
- 38) In relation to whether the contract has been affirmed, or the breach waived by the claimant, the Court of Appeal in *Kaur* (above) offered guidance to tribunals, listing the questions that it will normally be sufficient to ask in order to decide whether an employee was constructively dismissed. These were set out by Mrs Collins in her submissions:
- what was the most recent act (or omission) on the part of the employer which the employee says caused, or triggered, his or her resignation?
 - has he or she affirmed the contract since that act?
 - if not, was that act (or omission) by itself a repudiatory breach of contract?
 - if not, was it nevertheless a part of a course of conduct comprising several acts and omissions which, viewed cumulatively, amounted to a repudiatory breach of trust and confidence?
 - did the employee resign in response (or partly in response) to that breach?
- 39) The burden of proving the absence of reasonable and proper cause lies on the party seeking to rely on such absence (see *RDF Media Group plc and anor v Clements* 2008 IRLR 207, QBD). As in that case, this will usually be the employee.
- 40) In *Hilton v Shiner Ltd — Builders Merchants* 2001 IRLR 727, EAT, Mr Recorder Langstaff QC, as he then was, stated in connection with a submission by counsel as to the proper legal test for establishing a breach of the implied term in the context of a case where the employer was alleging that the employee's misconduct had destroyed trust and confidence:

'When Mr Prichard identified the formulation of the trust and confidence term upon which he relied, he described it as being an obligation to avoid conduct which was likely seriously to damage or destroy a mutual trust and confidence between employer and employee. So, to formulate it, however, omits the vital words with which Lord Steyn in his speech in Malik v Bank of Credit and Commerce International SA (in compulsory liquidation) (above) qualified the test. The employer must not act without reasonable and proper cause... To take an example, any employer who proposes to suspend or discipline an employee for lack of capability or misconduct is doing an act which is capable of seriously damaging or destroying the relationship of trust and confidence between employer and employee, whatever the result of the disciplinary process. Yet it could never be argued that an employer was in breach of the term of trust and confidence if he had reasonable and proper cause for the suspension, or for taking the disciplinary action.'

Conclusions

Alleged treatment of the Claimant by the Respondent

- 41) Regardless of any alleged prior breaches of contract or straws, it is clear that the Respondent fundamentally breached the Claimant's contract of employment through the bullying of the Claimant by Cllr Taylor in the period prior to the Claimant's sick leave. Cllr Taylor is part of the executive of the Respondent and an independent third party has made findings of bullying which have not been challenged in this Tribunal.
- 42) However, the Claimant did not resign at that time and not for some months later.
- 43) The Claimant's case is clear that he relies on the "last straw" doctrine. It was not argued on behalf of the Claimant that it was open to him to rely on the fundamental breach of contract attributable to the aforementioned bullying by Cllr Taylor in the absence of any final straw. In other words, it was not argued on behalf of the Claimant, and the Claimant does not suggest, that he did not affirm the contract following this.
- 44) By October 2020, having received the outcome of the Code of Conduct report, the Claimant was thinking about his return to work and steps that may need to have been taken to enable that. He was still looking to his employer to resolve the issues he had raised and therefore trusting that they would do so. He asked for measures to be put in place for a return to work and a discussion around what that return would look like took place in particular at a meeting on 4 December. By this point, the Claimant knew that his grievance was going to be investigated by a third party organisation, so as at the date of resignation, he knew that action was now being taken in that regard.
- 45) The Claimant then returned to work on 16 December 2020, having wanted to return a week earlier. By this time, at least six months had passed since the fundamental breach occurred, and whilst delay is not of itself affirmation, it is clear that the Claimant had thought about what had happened and he wanted to continue working for the Respondent at this time. I find that he did affirm the contract of employment following that fundamental breach.
- 46) It follows, therefore, that a final "straw" is required, as this would revive the previous fundamental breach.
- 47) I note that this point that there are a number of straws between the prior fundamental breach and the last straw (none of which are relied on as fundamental breaches of contract or of trust and confidence of themselves). My summary conclusions in relation to each of those matters (using the lettering adopted in para 7.1 above) are as follows:
 - (d) Failing to deal with the Claimant's grievance of 10 July 2020: Failing to deal with a grievance could be a fundamental breach of contract of itself. However, in this case by 4 December the Claimant knew that action was now going to be taken, albeit somewhat delayed. The Claimant's July grievance was going to be investigated by the HR Services Partnership and the Claimant was content with that course of action. If the lack of action regarding the July grievance could have been a fundamental breach of contract at that point, the contract was again subsequently affirmed by 4 December 2020 (as I have said, the Claimant was content with the course of action adopted). The delay in dealing with the grievance is not alleged to be a final straw.

- (e) Failing to deal with the Claimant's subject access request of 15 October 2020: Not dealing with the subject access request by the point of resignation was not a fundamental breach of contract in the circumstances and is not alleged to be a fundamental breach. It is relied on as a straw, but not a final straw.
- (f) Failing to ensure that Councillors were to play no part in the handling of the Claimant's employment: It appears that the Claimant was kept away from Councillors as far as was possible. The Deputy Town Clerk took responsibility for his line management pending the appointment of the new Town Clerk. The Respondent did what it could do in the circumstances, and this cannot be said to amount to the Respondent acting in a manner calculated or likely to destroy trust and confidence without proper cause. Again this is not suggested to be a final straw, or a fundamental breach of itself, and the Claimant returned to work on the basis of the arrangements that were in place. Whilst this was suggested to be a straw, in my finding it was not actually something playing on the Claimant's mind as at his resignation. He was satisfied with his line manager. In any event, given the Claimant's role and the structure of the Respondent, it would not be tenable for the Respondent to agree that no Councillor would have anything to do with the Claimant's employment.
- (g) Failing to deal with the Claimant's grievance of 28 October 2020: This was discussed with the Claimant, who refused to let the Deputy Town Clerk disclose the grievance to Councillors. The Deputy Town clerk could not take independent action in the absence of discussing the grievance with Councillors, which was explained to the Claimant. This was not action calculated or likely to destroy trust and confidence.
- (h) Abuse of the Claimant by the Assistant Market Manager at the market on 12 December 2020: For the reasons set out in paragraphs 50-56 below in relation to the altercation on 19 December 2020, I find that a dispute between the Claimant and his subordinate is not a breach by the Respondent. The key issue in relation to matters such as this is how the Respondent deals or does not deal with the matter.
- (i) Failing to take appropriate action to prevent further abuse by the Assistant Market Manager: The issue between the Claimant and the Assistant Market Manager was discussed with Claimant by the Deputy Town Clerk. Due to the time of year and pending annual leave it was agreed that the issue would be dealt with in the New Year and mediation was suggested. The Claimant accepted both the suggestion of mediation and the suggestion that this be dealt with in the New Year and, again, the reasons having been explained to the Claimant, this is not action calculated or likely to destroy trust and confidence. The Respondent did not, therefore, fail to deal with the issue, but rather agreed a timeline in which it would do so.
- (j) Abuse of the Claimant by the Assistant Market Manager at the market on 15 December 2020: For the reasons set out in paragraphs 50-56 below in relation to the altercation on 19 December 2020, I find that a dispute between the Claimant and his subordinate is not a breach by the Respondent. The key issue in relation to matters such as this is how the Respondent deals or does not deal with the matter. The matter was discussed with the Claimant in any event, and the Claimant already knew and had agreed to issues between him and the Assistant Market Manager being dealt with in the New Year.

48) I do not find that any of the above matters taken together or separately amount to a

fundamental breach of contract. None of them are relied on as a last straw. The matters set out above show that the Deputy Town Clerk was acting in such a way as to preserve trust and confidence.

- 49) There is one further alleged straw, however (issue k in the list of issues). If that straw is capable of being a "straw", the above matters, including the previously affirmed fundamental breach of contract, need to be considered along with that final straw.
- 50) The final straw is stated as being the actions of Mr Cracknell, the Assistant Market Manager, on 19 December 2020.
- 51) In essence, this case boils down to whether the alleged last straw is capable of being a "straw" for the purposes of constructive dismissal. If it is, then, regardless of the other straws relied upon, the fundamental breach is revived.
- 52) It is accepted that Mr Cracknell had no supervisory or management responsibilities in respect of the Claimant. He was junior to the Claimant in terms of title. Mrs Collins argued for the Claimant that the actions of Mr Cracknell were instigated and supported by two Cllrs and therefore attributable to the Employer. Mrs Collins also referred me to the case of Hilton International Hotels (Uk) Ltd V Protopapa and said that pursuant to this case, an employer is liable for acts of its employees in respect of a breach of trust and confidence where the employee is doing what they were employed to do and if, had the employer done what that employee did, that would be a breach.
- 53) Mr Johns argued that an act of a more junior employee cannot be said to be conduct on the part of the employer. He said that the Hilton case referred to employees in a supervisory capacity.
- 54) I have reviewed the case referred to. The EAT made findings in the Hilton case in relation to supervisory employees, and the extent to which the employer is bound by a supervisory employee's misdeeds. This case is not authority that any employee can affect the trust and confidence between employee and employer.
- 55) Of course it is the case that if another employee causes harm or does an act of misconduct to another employee, the recipient of the behaviour has the right to report that to his employer and for that to be dealt with. A failure to take action could then cause a breach of trust and confidence. In this case, Mrs Marlow had previously spoken to both employees, had said that she would deal with the matter in the new year, had suggested mediation and this had been agreed by both the Claimant and Mr Cracknell, and she had advised the Claimant to try to avoid Mr Cracknell in the interim period. Mrs Marlow explained her reasons for the timescale in dealing with this, and was not unreasonable and did not demonstrate any intention not to be bound by the Claimant's contract. The Claimant accepted this at the time. He did not report the incident of 19 December 2020 to Mrs Marlow prior to resigning in any event and there was no failure by her to act on the matter.
- 56) I have concluded that Mr Cracknell's actions cannot be attributed to the employer in this case. He was a junior employee with whom the Claimant had a difficult relationship. There is no evidence that Mr Cracknell abused the Claimant in December 2020 because, for example, he was told to do so or egged on to do so as was suggested by the Claimant in this case. He may have had the ear of one or more Councillors when reporting his complaints about the Claimant, but ultimately on the balance of probabilities I find that the incidents in December 2020, including the incident on 19 December 2020, arose because Mr Cracknell was annoyed at the

Claimant, the relationship between them was poor and he reacted poorly towards the Claimant. It was a reaction of Mr Cracknell to the Claimant.

57) I accept that the Claimant felt strongly about the characters in play, and he had been treated poorly prior to his period of sick leave. However, as the last straw is not an act attributable to the employer in this case, and there is no fundamental breach that had not been affirmed, in the absence of this last straw, the Claim must fail.

Employment Judge Youngs

Date: 11.08.2022

Reasons SENT TO THE PARTIES ON
23 August 2022 By Mr J McCormick

FOR THE TRIBUNAL OFFICE

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