



## EMPLOYMENT TRIBUNALS

### Claimant

Isabella Camburn

### Respondent

Celtic Equine Veterinary  
Practice Ltd

v

**Heard at:** Bristol (video hearing)

**On:** 18 August 2022

**Before:** Employment Judge Housego

### Appearances

**For the Claimant:** In person

**For the Respondent:** Amy Rumble

## JUDGMENT

The Respondent is ordered to pay to the Claimant the sum of £4,380.

## REASONS

1. The Claimant was employed by the Respondent as an assistant veterinary surgeon, part time, three days a week. She started work on 01 or 03 February 2020 (both dates are given and it is immaterial which it was).
2. The Claimant was furloughed between 23 March 2020 and 01 June 2020.
3. After several shorter periods of absence, the Claimant ceased work on 15 July 2020, by reason of illness, and did not return.
4. On 21 December 2020 the Claimant was dismissed for capability reasons. She was given one week's notice.
5. The Claimant says that she was entitled to three months' notice. She says that she had a three-month probation period, that she was employed for more than three months, and so was not dismissed during or at the end of probation, so that she was entitled to the three months' notice provision in her contract for notice



given after probation ended. If not, then she had worked 13 weeks before going off sick and that was the probationary period completed.

6. The Respondent says that on 21 August 2020 the probation of the Claimant was extended, and as she was away ill she never completed her (extended) probation period, so that one week's notice was all that was required.

7. The contract of employment is dated 01 April 2020. It provided:

***“Probationary Period***

*New employees are subject to the satisfactory completion of a three month probationary period. The Company reserves the right to extend this period at its discretion.”*

8. As to notice, the contract stated:

*“The Practice has the right to serve notice of termination of your employment at any time in accordance with the notice provisions below.*

*Less than 1 month's service – nil*

*1 month's service to the satisfactory completion of your trial period – 1 week*

*From the satisfactory completion of your trial period – 3 months”* (the typed figure is 2, and is struck through and a manuscript 3 is added).

9. The email dated 17 December 2019 offering the Claimant a job stated:

*“There would be a trial for 1 month followed by a probationary period of a further 2 months, at the end of which time if both parties are in agreement a contract of employment would be drawn up and signed.”*

10. The date of the contract is explained by the letter saying there would be a month's trial followed by a probationary period. The letter referred to a contract after the end of a probationary period. The contract was drawn up and signed at the end of the month's trial, which does not accord with the letter. Nevertheless, a contract was required whatever the job offer said.

11. The contract does not say whether or not the one month's trial was part of the probationary period. I decide that it did form part of the three months' probation, because the job offer said that was to be the case.

12. The three months would have ended in May 2020. The Claimant was not working after 23 March 2020 as she was furloughed. As she did not return to work until 01 June 2020, whether the probation period was three or two months after the contract was signed is immaterial. Whichever it was the Claimant was not at work because she was furloughed.

13. On 05 July 2020 the Claimant was offered an increase from her 3 day a week role to one of either 4 or 5 days a week. She had been requesting an



increased income and this was the Respondent's reply to that request. The Claimant went off sick on 15 July 2020 so this was not taken forward.

14. On 21 August 2020, the Respondent emailed the Claimant stating that her probationary period was extended, the Claimant having been away from work since 15 July 2020. This was in an email dealing with multiple grievances raised by the Claimant.
15. By then the Claimant had been away from work for 5 weeks and had been furloughed for about 9 weeks.
16. There was never a probation signoff meeting or decision.
17. The Claimant's case is based on the simple chronology – the probation period was three months. After three months she had completed her probation. Therefore, she was entitled to three months' notice. It is not a sustainable argument that the probationary period had elapsed so that three months' notice was required. If that were the case, someone starting on 22 March 2020, and furloughed the next day, would have satisfactorily completed a probation period on 20 June 2020 even if furloughed the whole time. That is plainly not what satisfactory completion of a probation would entail.
18. This is not consistent with common sense – by the end of the probation period, so calculated, the Claimant had worked in the practice for about 7 weeks.
19. The Claimant returned to work on 01 June 2020 and was then present until 15 July 2020, a further 6 or 7 weeks.
20. Accordingly, she had worked for 13 weeks by the time she ceased to attend work by reason of illness. The Respondent accepted this in the dismissal letter.
21. The contract refers to "*satisfactory completion*" of the probation period. That means an evaluative exercise. It is not just a matter of the days passing. It is possible to infer satisfactory completion of a probationary period by reason of subsequent conduct (for example a promotion or pay rise, or the passage of time after the three months had elapsed).
22. The Respondent was contractually entitled to extend the period, and the Respondent stated, on 21 August 2020, that it did indeed extend the probationary period. This was by reason of the Claimant going off sick. However I find that by then the probation period had been successfully completed. That cannot be revoked retrospectively.
23. This is because of the meeting on 03 July 2020, and the follow up email of 05 July 2020. There was a considerable back story to this meeting. The Claimant wanted a higher income. While Mr Hough had considerable reservations about various aspects of the Claimant's approach to her workplace, he wrote to her on 05 July 2020, offering her a choice of two options. One was to increase from 3 days a week to 4 days a week and the other to increase to 5 days a week. The full



financial terms were set out, the shifts to be worked and so on. The Claimant was asked if she wanted either, and if so it would start on 01 August 2020, and she would be rostered according to her new role. That email does not mention probation.

24. I can view this only as a satisfactory completion of probation. There was no requirement for probation in the new roles that were offered. While there was no mention of satisfactory completion of probation in the role which the Claimant started in February 2020, it is inconceivable that the Claimant could have been dismissed at the 13 week point, or her probation extended, some two weeks after such job offers was made.
25. Therefore, the Claimant had passed her probationary period, and that means she is contractually entitled to 3 months' notice, not the one week which she was given.
26. The parties very helpfully agreed that the amount which I should award is £4,380.

**Employment Judge Housego**

Dated: 18 August 2022

Sent to the parties on:

31 August 2022 By Mr J McCormick

For the Tribunal Office