



EMPLOYMENT TRIBUNALS

Claimant: Miss B Barker
Respondent: Neptune House Limited
Heard at: London South by CVP Video
On: 16th September 2022
Before: District Tribunal Judge A Shields (sitting alone)
(Sitting as an Employment Judge)

Representation:

Claimant: In person
Respondent: Mr McFarlane (Consultant)

JUDGMENT

The Judgment of the Employment Tribunal delivered orally, with reasons, on 16th September 2022 was that the Claimant was not unfairly dismissed and the claim is dismissed.

REASONS

Introduction

1. The claim form was presented on 20 March 2022 and the claimant complained of unfair dismissal in relation to her redundancy from her role as a personal assistant on 11 March 2022.
2. The claimant states that the reason for the termination of her employment was not a redundancy and that the procedure was not fair. The claimant claims that her dismissal was unfair within section 98 of the Employment Rights Act 1996.
3. By a response on or before 25 April 2022, the Respondents, named as both Ms Rachel Brook and Neptune House Limited resisted the complaint stating that the claimant was fairly dismissed for redundancy. Their case was that this was a genuine redundancy situation that was carried out procedurally

fairly or, in the alternative, was a business re-organisation that amounted to a substantial reason of a kind to justify the dismissal of the claimant and that the dismissal was, in any event, fair.

4. The Claimant represented herself and gave sworn evidence. The Respondent was represented by Mr McFarlane and he presented sworn evidence from Ms Rachel Brooke. There were two non-participating Trainees from the Respondent's representative company in attendance.
5. ACAS was notified under the Early Conciliation procedure on 18th March 2022 against both named Respondents and the certificates were also issued on 18th March 2022. The ET1 was presented on 20th March 2022 and the ET3's were received by the Tribunal on or before 26th April 2022.

Claims and Issues:

6. The claimant has brought a claim for unfair dismissal and the claim is as summarised above. The issues that I had to determine were as follows:
 - i. Who was the correct respondent in the matter;
 - ii. Was the claimant dismissed;
 - iii. What was the reason or principal reason for the dismissal and was it a potentially fair reason under sections 98(1) and (2) of the Employment Rights Act 1996??
 - iv. If the reason was redundancy, was the dismissal fair or unfair within section 98(4), and, in particular, did the respondent in all respects act within the band of reasonable responses?
 - v. If the reason was redundancy, did the respondent act reasonably in all the circumstances in treating that as a sufficient reason to dismiss the claimant. The Tribunal will usually decide, in particular, whether:
 - a. The respondent adequately warned and consulted the claimant;
 - b. The respondent adopted a reasonable selection decision, including its approach to a selection pool;
 - c. The respondent took reasonable steps to find the claimant suitable alternative employment; and
 - d. Dismissal was within the range of reasonable responses.
 - vi. If the dismissal was for Some Other Substantial Reason, namely a business reorganisation capable of justifying dismissal, then did the respondent act reasonably in all the circumstances in treating that as a sufficient reason to dismiss the claimant?
 - vii. If the dismissal was procedurally unfair, what adjustment, if any, should be made to any compensatory award to reflect the possibility that the claimant would still have been dismissed had a fair and reasonable procedure been followed, in accordance with the principles in *Polkey v AE Dayton Services Ltd* [1987] UKHL 8; *Software 2000 Ltd v Andrews* [2007] ICR 825; *W Devis & Sons Ltd v Atkins* [1977] 3 All

ER 40; and *Crédit Agricole Corporate and Investment Bank v Wardle* [2011] IRLR 604. The respondent said that the claimant would have been dismissed in any event, therefore any award should be reduced by 100%. The claimant contended that she would not have been dismissed.

- viii. If the dismissal was unfair, what is the appropriate remedy? The Tribunal to decide the following at a later date:
- a. For a compensatory award, what financial losses has the dismissal caused the claimant?
 - b. Has the claimant taken reasonable steps to replace their lost earnings, for example by looking for another job?
 - c. If not, for what period of loss should the claimant be compensated?
 - d. Is there a chance that the claimant would have been fairly dismissed anyway if a fair procedure had been followed, or for some other reason?
 - e. If so, should the claimant's compensation be reduced? By how much?
 - f. Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?
 - g. If so is it just and equitable to increase or decrease any award payable to the claimant? By what proportion, up to 25%?
 - h. Does the statutory cap of fifty-two weeks' pay or £86,444 apply?
 - i. What basic award is payable to the claimant, if any?

Procedure, documents and evidence heard:

7. I heard evidence from each of the parties and I had the benefit of a combined and agreed hearing bundle of approximately 360 pages. There were two witness statements which had been signed and that had been exchanged.
8. At the start of the hearing, both parties informed me of the documents that I needed to read before the hearing and I took the time to read the witness statements and cross reference the pages of the bundle as referred to in those statements.
9. The evidence of the parties was completed during the listed day of the hearing. At the conclusion of the evidence, each party made an oral submission which I made a full note of.
10. The claimant submitted that the process was a sham redundancy and the real reason for the termination of her employment was that her relationships

with colleagues broke down prior to December 2021, she was being bullied and it was easier to push her to one side and then terminate her employment. The claimant states that there was more than enough work as a personal assistant to keep her busy.

11. The respondent submitted that there were sound business reasons for making the personal assistant role redundant and that there were economic and commercial business reasons, and an appropriate and fair procedure was followed.
12. I used the late afternoon for my deliberations on the claim. I delivered my Judgment orally at the end of the hearing.

Preliminary Issue:

13. The first matter I had to decide is, who was the correct Respondent?
14. The correct respondent in this matter is the company, Neptune House Limited.
15. An unfair dismissal claim is capable of being pursued against an employing person or entity, whether this be an individual, sole trader, partnership or corporate entity. In this case, the employing entity is Neptune House Limited. The Claimant agreed that this was her correct employer. This is evidenced in the contract of employment at pages 63-64, in the claimant's final pay slip at page 292 and in the claimant's P45 on page 294.
16. Miss R Brooke was not her employer and is not the correct Respondent in this claim. The claim proceeds against Neptune House Limited only.
17. Secondly, there were documents contained within the bundle at pages 96-97. These documents were purportedly covered by section 111A of the Employment Rights Act 1996. However, the claimant alleged that she was being bullied (at page 97) which might amount to improper behaviour, removing the protection of section 111A of the Employment Rights Act 1996, and therefore, this was not a preliminary matter but would need to form part of the Tribunal's decision, having considered the oral evidence of improper behaviour.

Findings of fact:

18. The relevant facts are as follows. Where I have had to resolve any conflict of evidence, I indicate how I have done so at the material point. References to page numbers are to the agreed bundle of documents.
19. The claimant was employed as a personal assistant from 13 September 2016 and her employer was Neptune House Limited. Her last date of employment with the respondent was 11 March 2022. A statement of her terms and conditions dated 17 June 2019 and an up-dated version of the contract of employment is at page 63-64 of the bundle. The respondent does not have a contractual or non-contractual redundancy policy.
20. The Respondent is Neptune House Limited: the company owns and operates Neptune House Care Home. The Care Home is on the Isle of Sheppey and has 14 residents with Learning Difficulties, aged from 18-70. There are

approximately 26 staff providing 24 hour care to the residents. The management structure is the Home Manager (Ms Rachel Brook), a Deputy Manager and four senior staff who manage the carers, catering and cleaning staff.

21. Ms Rachel Brook is the Home Manager. She joined the Company as a carer in March 2006. On 24th March 2014, she was appointed a Company Director and she is a minority shareholder in the Company.
22. Ms Brook interviewed the claimant and appointed her as her Personal Assistant (PA) from 13th September 2016. At the appointment date of 13th September 2016, the PA role was purely an administrative role. I accepted the evidence of both witnesses that the role evolved over time into different tasks and duties.
23. The Claimant was initially employed on a term-time only contract of 30 hours per a week. In 2019, the role became a full year-round role. The most recent job description being drawn up in February 2019, as evidenced at pages 193-195.
24. The Claimant's administrative duties included collating the hours staff worked for payroll purposes, looking after the Care Home resident's finances, arranging training, updating training, collating new files for new staff members, oversight of the petty cash and preparing the petty cash accounts, note taking in disciplinaries (when unconnected to the staff member involved). The claimant shared an office with Ms Brook.
25. In January 2019, the claimant asked to assist her grandmother in the kitchen at the Care Home. This was to assist her grandmother who was finding some of the tasks demanding. The claimant assisted her grandmother on a Friday. This commenced from 28th January 2019.
26. From 06th May 2019, the claimant also started to work as a Carer.
27. In June 2019, I find that the hours of work were thirty hours to be worked at the Care Home and seven hours to be booked to be worked at home. I find that the 7 hours could be worked at the discretion of Ms Barker. That is, that she did not have to complete 7 extra hours of admin at home if she did not wish to do so. If she did wish to complete 7 extra hours of admin at home, then she needed to obtain prior authority for those hours from Ms Brook. This was further supported by the contract drawn up for the Claimant to be paid if she worked those hours, on page 63-64. The contract was signed by both parties.
28. The records show that apart from the week commencing 25th November 2019, where only one additional hour over the 30 hours was worked in an admin role, the remaining extra 7 hours per a week were not utilised by the claimant. However, in oral evidence Ms Brook admitted that she had not added the additional 7 admin hours worked during 2019 on pages 261-262 as they had not been on the rotas that she took the information from. She further conceded that the diminishing of the PA role started in 2020, with the covid pandemic. I find that consistent with the other written evidence available including the historical pay data on pages 290-291, the

respondent's business case for a redundancy and the timing of the redundancy itself.

29. I accept the respondent's position that any additional admin hours were to be paid at the manager's discretion and were over and above the annual salary of £13,182. The extra hours were to be paid in the sum of £8.45 per hour.
30. I accepted the record of the claimant's hours for 2019, as detailed on page 261-2 with regard to the cooking and caring duties. I do find that the admin hours actually recorded on those pages are the core admin hours that the claimant carried out admin work and that she was paid for additional hours in 2019 for work undertaken at home, but those 2019 hours and pay details are not included on pages 262-262. I can see that between 25th September 2019 and 25th March 2020 additional hours were being undertaken by the claimant which were cooking, caring and additional admin duties.
31. I accept the record of the claimant's hours from 16th March 2020 onwards, from the start of the pandemic, as detailed on pages 263-265.
32. I accepted the respondent's record of the hours worked in preference to the evidence of the claimant, as the hours records, although not contemporaneous, were compiled by the respondent using the Company rotas. The oral evidence from Ms Brook was that the 30 hours of admin carried out by the claimant from March 2020 onwards was carried out both in the office and at the Claimant's home at times convenient to her but was far less than the caring duties as these were considerable additional caring duties / hours that were being undertaken at that time. Ms Brook did not concede that the 2020 hours schedule was incorrect.
33. During the pandemic in 2020, the respondent paid the claimant her salary as a PA and she was paid an hourly rate for the care shifts she carried out too (pages 263-265 & 290-291). In 2020, the claimant carried out many more hours of work as a paid carer in the Care Home. The pattern of pay on pages 290-291 supports the hours detailed on pages 263-265.
34. In November 2020, the parties discussed a job offer of Deputy Manager. The parties could not agree on a salary and therefore the change in role did not occur. The respondent made an offer of the role but the salary was not enough for the claimant so the role was not accepted. In February 2021, the respondent considered and offered the role of Office Manager which involved health and safety qualifications and some night shifts as a carer. Again, the parties could not agree on the terms of the salary. I preferred the evidence of the respondent in this regard because the written evidence supported the discussions over the salaries.
35. By 2021, this position had varied again and the claimant was carrying out PA admin work, from January 2021 to 31st May 2021 only. The pay records show that, for 2021, the claimant was being paid her standard contractual rate and this fits with the fact that the claimant was not carrying out additional duties.
36. From 31st May 2021 to 22nd November 2021, the claimant was working a mix of both admin hours and carer hours, with more carer hours being carried out in that period of time than PA duties (see page 264) but it is noted that she

was not receiving any additional pay for carrying out the caring duties (page 290-291).

37. From 29th November 2021 onwards, the claimant only carried out PA admin hours. This included both sick leave and annual leave.
38. I accept the evidence of the respondent, over that of the claimant, that throughout 2021, the PA admin work was worked either at home or in the office and that a full 30 hours was not being completed by the claimant where stated, but that the continuing payment of 30 hours was made as a gesture of goodwill (page 265).
39. From 31st May 2021 onwards, carer hours exceeded PA admin hours. I accepted the respondent's position that this was due to circumstances changing both during and following the pandemic and that procedures had changed; carers were needed but admin was reduced.
40. I reach that conclusion because the payroll does not show that the claimant was receiving extra pay during this time. She was receiving her contractual pay entitlement only. The caring hours are detailed on pages 263-264. One would expect the claimant to raise the issue with her employer if she were working additional hours (over the 30 stipulated contractual hours per week) but not being paid for them and there is no record of any pay complaints from the claimant. Together the admin and caring hours, post 31st May 2021, add up to 30 hours or in some cases under 30 hours. The Claimant states in her witness statement, at paragraph 32, that she had a discussion with Ms Brook that the admin work could be completed around the night shifts in July 2021.
41. The claimant informed the respondent that she had had an adverse reaction to the first covid vaccination and that she would not accept a second vaccination. The respondent used an external consultant to investigate the issues with the claimant. A vaccine investigation meeting took place on 6 December 2021. The respondent followed the investigator's suggested outcome, to allow the claimant time to establish that she was exempt from obtaining the second vaccination. Subsequently, the claimant provided an exemption certificate. This internal matter was therefore at an end.
42. On 30th December 2021, the respondent wrote to the claimant inviting her to a confidential protected meeting (page 96-97).
43. The claimant raised a grievance immediately stating that she was being bullied and that she had not felt welcome at her employer for a while (page 97). The respondent wrote to the claimant and this letter is at page 99-100 of the bundle.
44. A grievance meeting took place on 7 January 2022 with a company appointed grievance investigator. A report of the meeting was compiled, and recommendations made to the respondent (page 101-131, evidence pack at pages 131-169). The outcome dealt with the issues that the claimant raised on 30 December 2021 and recommended that the grievance be dismissed. The grievance was dismissed by the respondent (page 171-173) and the claimant stated that she wished to continue with a grievance appeal (page 172). An invitation to the grievance appeal was sent to the Claimant (pages

174-175).

45. The claimant stated that she would not be continuing with her grievance and would pursue her own legal avenue (page 177-179). She was asked to reconsider and was offered an opportunity to provide written submissions in evidence in support of the appeal (page 180-186).
46. The claimant refused to take part in the grievance appeal meeting: she did not attend the grievance appeal meeting (page 186). She confirmed on multiple occasions, in writing, that she would not be continuing with her grievance.
47. The respondent's representatives continued with the grievance appeal and dismissed it by way of a report dated 3 February 2022. The respondent wrote to the claimant informing her of the grievance appeal decision on 8th February 2022 (pages 199-228).
48. I carefully reviewed the issues surrounding the grievance. I find that there were issues between the claimant and other employees but that at no time prior to 30th December 2021 had the claimant raised the issues with the respondent's Manager, Ms Brook, as a grievance. These were issues that the claimant could have raised formally or informally with Ms Brook but she had not sought to do so. The evidence put forward was evidence of the issues that had arisen but not evidence that she had complained to Ms Brook and asked her to deal with the issues as part of a workplace issue. I preferred the oral evidence of Ms Brook as it was consistent with the written evidence available and contained in the Tribunal bundle.
49. On 2-3rd February 2022, the respondent invited the claimant to an informal meeting. In response, the claimant confirmed she was not a carer but she was a PA in an admin role (pages 188-19). The respondent invited the claimant to return to work, rather than working from home on 8th February 2022.
50. On 11th February 2012, the respondent wrote to the claimant in order to change her terms and conditions of employment by reducing the hours of the PA role to 6 per a week and providing 24 hours per week as a Carer (page 231-232).
51. A telephone meeting took place on 16th February 2022, with the claimant and a Peninsula representative (pages 254-258). The claimant stated she was a PA and there were no other roles she would consider. She would not agree to any change to her terms and conditions of employment. A report from Peninsula explains the attempts at varying the claimant's contract and details the steps taken and the failure to amend the claimant's contract of employment. The report relating to varying the contract was dated 21 February 2022 and the company concluded that if there were to any changes to an employment contract, there should be further consultation and that consultation did not progress.
52. On 18th February 2022, the respondent wrote to the claimant explaining that she was owed back pay from April 2020 regarding the payment of the National Minimum Wage and the underpayment will be paid in the end of

month payroll.

53. On 22nd February 2022, the respondent notified the claimant that she had to use annual leave for a fixed period as they did not have sufficient work for her. The claimant responded querying the annual leave and asking why they are not making her redundant. There are a number of communications between the parties, all in writing, regarding annual leave and when the claimant is expected to return to work.
54. The respondent's business case for a redundancy of the PA role is at page 266-267 of the bundle. The respondent explains that during and following the pandemic, administration procedures have changed and been made more efficient meaning that tasks either take less time to fulfil or are no longer required. The respondent refers to changes over the last 20 months and that time frame refers to changes that have taken place from the start of the pandemic onwards. This document supports the position that in 2019 the claimant's role was not diminishing (as conceded under cross examination by Ms Brook).
55. On 25th February 2022, the respondent clarifies that the company does not intend to vary the claimant's working hours and will take no further action with regard to "SOSR" (without explaining what was being referred to). It then goes on to warn the claimant that her role as a PA is at risk of redundancy and that they were now going to enter a period of consultation of approximately one week.
56. A second letter also dated 25th February 2022, invites the claimant to a consultation meeting (pages 268-269) explaining the PA admin role has diminished from 30 hours per a week to 6 hours per a week. It invites the claimant to discuss this further and to discuss alternatives with the aim of avoiding the redundancy.
57. A consultation meeting was carried out on 4 March 2022 and potential alternatives to redundancy were set out by email on 4th March 2022 (page 270). Peninsula set out in a report the reasons for the redundancy and the process to follow. The report is at pages 272-284 (and includes the minutes of the consultation meeting from page 279 onwards).
58. The claimant was given until Tuesday, 8 March 2022 to suggest any alternatives or express any interest in the positions, and the employee did not do so.
59. On 11 March 2022, the claimant's employment was terminated with the respondent and she was paid a statutory redundancy payment, notice pay of five weeks and accrued holiday pay. The termination letter sets out the details of the reasons for the redundancy and the procedure followed (page 286-288).

Relevant law:

60. Under section 111A of the Employment Rights Act 1996 and the ACAS Code of Practice for Settlement Agreements whether the correspondence sent to

the Claimant was part of a confidential discussion as a means of ending the employment relationship and the conversation cannot be used in any subsequent unfair dismissal case.

61. Under s139(1) Employment Rights Act 1996, a dismissal is by reason of redundancy if the dismissal is wholly or mainly attributable to —
- (a) the fact that his employer has ceased or intends to cease —
 - (i) to carry on the business for the purposes of which the employee was employed by him, or
 - (ii) to carry on that business in the place where the employee was so employed,
 - or
 - (b) the fact that the requirements of that business —
 - (i) for employees to carry out work of a particular kind, or
 - (ii) for employees to carry out work of a particular kind in the place where the employee was employed by the employer, have ceased, or diminished or are expected to cease or diminish.
62. Section 94 of the Employment Rights Act 1996 confers on employees the right not to be unfairly dismissed. It is acknowledged that the law is set out for unfair dismissal in section 98(4) of the Employment Rights Act 1996. Section 98 of the 1996 Act deals with the fairness of dismissals. There are two stages within section 98. First, the employer must show that it had a potentially fair reason for the dismissal within section 98(2). Second, if the respondent shows that it had a potentially fair reason for the dismissal, the Tribunal must consider, without there being any burden of proof on either party, whether the respondent acted fairly or unfairly in dismissing for that reason.
63. The leading redundancy case is *Williams v Compair Maxam Limited*. a reasonable employer might be expected to consider the following:
- whether the selection criteria were objectively chosen and fairly applied
 - whether employees were warned and consulted about the redundancy
 - whether, if there was a union, the union's view was sought, and
 - whether any alternative work was available.

Conclusions:

64. Firstly, was the letter of 30th December 2022 protected under section 111A of the Employment Rights Act 1996. I concluded that it was protected. There was no improper behaviour and therefore the correspondence is protected in relation to the settlement discussion or the opening of a settlement discussion. I therefore did not take into consideration the documents in my deliberations.
65. Was the claimant was dismissed? There is a clear dismissal letter in the Tribunal bundle. Therefore, the claimant was dismissed on 11 March 2022 and her claims were brought within time.
66. For unfair dismissal, this is a two stage process as to whether the dismissal was fair or unfair. The first stage is for the respondent to show a potentially fair reason for dismissal and secondly if that is done the question then arises

whether dismissal is fair or unfair.

67. The first issue I have to decide is, what was the reason or principal reason for dismissal.
68. The claimant states that the respondent's witness allowed her to be bullied, did not deal with her grievances and then ostracised her. The claimant states it was easier for the respondent to terminate her employment rather than deal with the issues because Ms Brook's friends were employed at the respondent.
69. In this case, the evidence from the respondent is that there was a diminishing need for a PA and that due to the pandemic, administrative matters had changed within the organisation and therefore the requirements for an employee to carry out the administrative work had diminished and that the dismissal was attributable mainly to this state of affairs.
70. The evidence put forward by the parties did deal with relationship issues between the claimant and other employees at the respondent during 2020 (principally in 2020). The evidence however was not raised by the claimant with her employer until 30th December 2021. I find that the grievance was raised as a direct result of the respondent seeking to take steps to deal with the reduced PA admin work available to the claimant.
71. I was satisfied that the administrative work had diminished during and after the pandemic and therefore the definition of redundancy as detailed above was met. There was a diminution in the requirement for employees, in this case the claimant, to carry out PA administration at the respondent's business, due to changes in the company procedures during and following the covid pandemic. These changes were detailed on pages 266-267.
72. The respondent conceded that the diminishing need did not start in 2019 as alleged in the ET3 and her witness statement and I accept that concession. The claimant relies on that concession to state that the respondent's case is a sham and that redundancy is not the reason or principal reason for dismissal. I do not agree with that view.
73. I am satisfied that the respondent had shown that there was a reduction in the PA admin work, from 2020 and continuing into late 2021, following the covid pandemic. Despite the concession made by Ms Brook, I found that her evidence was credible and reliable. The reason that I preferred Ms Brook's evidence over that of the claimant was that Ms Brook's evidence is supported by the documentary evidence in the Tribunal bundle and referred to by page number in the Findings of Fact section above.
74. The hours worked in 2020 show that the claimant was required for caring duties during that time (page 263). She did carry out administrative work but those duties were vastly reduced during 2020 at the height of the pandemic (understandably so) and it is found that these duties changed as time progressed.
75. By 31st May 2021, the claimant was being paid her normal pay rate as per her contract of employment but the payroll records and the hours worked

show that she was carrying out a mix of admin and caring duties, with more caring duties being carried out. The claimant did not query her pay and ask for additional pay for the additional caring duties. The implication being that the hours worked as a carer were in fact part of her 30 hours that she was contractually obliged to work and was being paid for. This indicates a reduction in the need for PA admin work to be carried out by June 2021 and continuing thereafter for the rest of 2021. This also is supported by the claimant's own witness statement at paragraph 32, where the claimant stated that she had a discussion with Ms Brook that the admin work could be completed around the night shifts in July 2021.

76. I did not find that the claimant was chosen because she had raised a grievance. The grievance was not raised at any earlier point in time with the respondent and there were opportunities for the claimant to do so. Further, I do not find that any other reason was applicable to the claimant being dismissed.
77. I find that the reason for the claimant's dismissal in early 2022 is wholly or mainly attributable to the fact that the requirement of the business for an employee to carry out PA admin work at the Care Home was diminished. This is a redundancy situation under section 139 of the Employment Rights Act 1996 which is a potentially fair reason for dismissal.
78. The respondent had attempted to change the terms and conditions of employment
79. The explanation is further detailed on pages 266-267. I do not interfere with the respondent's business case for a redundancy. The respondent has satisfied the requirements of section 98(2).
80. Turning to section 98(4), this deals with fairness generally and provides that the determination of the question whether the dismissal was fair or unfair, having regard to the reason shown by the employer, shall depend on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee; and shall be determined in accordance with equity and the substantial merits of the case.
81. Taking into account the size and resources of the employer, which is a small employer, I am satisfied that the process followed was procedurally fair. Moving on to the procedures, the respondent warned and consulted with the claimant and took such steps as were reasonable to avoid or minimise the redundancy by offering redeployment within the organisation.
82. The claimant was in a pool of one, however, she was the only person carrying out administrative tasks at the respondent. All other roles, save for the Care Home Manager, are roles involving caring, catering or cleaning.
83. The claimant was warned that her role was at risk of redundancy.
84. The consultation with the claimant was perfunctory and short, being carried out over only a two-week period but I acknowledge that in the two weeks prior to that redundancy consultation period there were background discussions

about the workload and the work that the claimant was actually carrying out in the context of a business re-organisation so, whilst I state that it was short and minimal, it did comply with the requirements of being a fair process during the two week consultation period.

85. With regard to suitable alternative employment, the claimant had made it clear that she was not prepared to combine PA admin duties and a caring role although one was offered. The claimant was offered three alternatives to avoid the redundancy and she did not respond to the three alternatives offered.
86. The respondent acted reasonably and its responses fell within the bound of reasonable responses that a reasonable employer might have adopted. The respondent warned and consulted with the claimant and took such steps as were reasonable to avoid or minimise the redundancy by offering redeployment within the organisation
87. I find, therefore, that the claimant was not unfairly dismissed by the respondent within section 98 of the Employment Rights Act 1996.
88. I thank both parties for the fact that they were able to supply a joint hearing bundle and that they appropriately exchanged witness statements prior to the Tribunal hearing. I would further state that both parties were ably represented, the claimant by herself, Mr McFarlane for the respondent. I thank them both for their time and representations.

Employment Judge Shields

Date 29 December 2022

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