



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 8000083/2023

**Final Hearing held in Edinburgh
on 26, 27 and 28 June 2023**

Employment Judge A Jones

Mr E Marshall

**Claimant
In person**

**Standard Life Assets and Employee Services
Ltd**

**Respondent
Mr R Alexander,
solicitor**

Judgment

The claimant was not unfairly dismissed and therefore his claim is dismissed.

Introduction

1. The claimant presented a claim on 27 February 2023 that he had been unfairly dismissed by the respondent. The claimant's employment had been terminated by reason of redundancy by the respondent on 28 September 2022. The respondent's position was that the claimant had been dismissed by reason of redundancy, that a fair procedure had been followed and that in the alternative, his dismissal was a fair one for some other substantial reason being the restructuring of the area in which he had worked.

2. The claimant represented himself throughout these proceedings and the respondent was represented by Mr Alexander, instructed by an in-house solicitor Mr McGregor. The Tribunal was grateful to both the claimant and Mr Alexander for the manner in which proceedings were conducted.

3. A joint bundle of documents was lodged by the parties. Three witnesses gave evidence on behalf of the respondent: Ms Taylor who at the relevant time was a Senior HR Business Partner gave advice on the process, Mr Hugh who was responsible for the restructuring and the decision to dismiss the claimant and Ms Moodie who was the manager of the project into which consideration had been given to redeploy the claimant. The claimant gave evidence on his own behalf. Both parties made submissions, and the respondent provided a written copy of those submissions.
4. Having considered the evidence, the documents to which reference was made and the submissions of the parties, the Tribunal found the following facts to have been established.

Findings in fact

5. The claimant commenced work with the respondent in 1998 initially in a customer services role. Over the period of his employment, he undertook a number of roles and in 2020 his role at that time was regraded and renamed Head of Proposition Deployment.
6. The respondent's structure is such that there are four levels of job roles. On regrading, the claimant's role was moved to that of Senior Leadership level which is the second highest of the grades. At the time of the termination of his employment, his salary was around £67,200 per annum and he was entitled to various other benefits including a car allowance and potential bonus.
7. The claimant had management responsibilities for between 6-8 staff and in 2023 was overseeing 3 further staff whose line manager was on long term sick.
8. In 2022 consideration was given to restructuring the area of the business in which the claimant was employed, the Workplace Business Unit. Mr Hugh who was Head of Workplace Proposition Strategy was appointed to coordinate the exercise which was intended to address perceived inefficiencies and offer a more coordinated approach to design, marketing

and delivery of products and services. A number of options were considered by Mr Hugh in discussion with Ms Taylor and others. A draft proposal was signed off by Mr Williams who was the Managing Director of the relevant area of the respondent's business on 30 March 2022.

5 9. The restructure proposed that the area for which the claimant was responsible, that is proposition deployment, be subsumed into two other areas Member Proposition and B2B Proposition to allow deployment to become part of the responsibilities of each team rather than be dealt with by a separate team. Together with a number of other individuals, including the
10 claimant's line manager who was taking up a new role, the heads of these areas would now report to Mr Hugh. There were a number of other individuals who were impacted by the restructure.

10. It was therefore proposed that the claimant's team be split amongst B2B and Member Proposition and that as a result the claimant's role would no
15 longer exist.

11. There had been some discussion with the claimant in 2022 regarding whether his team might be 'lifted and shifted' over to the responsibility of Mr Hugh on either a temporary or permanent basis in a new structure. However, this proposal was not incorporated into the final draft approved by
20 Mr Williams in March.

12. Although Mr Hugh was aware from 30 March that the claimant's role would no longer exist in the new structure, this was not shared with the claimant. Mr Hugh was on leave for a period in April and the claimant was on leave for a period thereafter returning on 9 May. Mr Hugh decided that he did not
25 want to inform the claimant of the new structure prior to the claimant's holiday in case others became aware of this. He wanted to ensure that the communications regarding the new structure were appropriately managed.

13. When the claimant went on leave, he understood the position to be that his team would be 'lifted and shifted'. Mr Hugh had not disabused him of that
30 understanding, but equally had not confirmed that his understanding was correct.

14. In 2023 the respondent was working on a strategically important project involving the outsourcing of its IT systems. It became apparent during the claimant's leave that the requirement for someone to take on the role of Head of Deployment within that project, which was called TTP3 was becoming more acute. The project itself was being managed by Ms Moodie together with other responsibilities she had for the respondent's Innovation Hub. The role of Head of Deployment was a strategically important role for the respondent which would involve liaising with a key external organisation. The role would be required for around two years.
15. Mr Hugh and Ms Taylor considered a number of individuals who might be suitable for this role. Prior to the claimant's return from leave, they had concluded that the claimant would be suitable for the role because of his experience, skill set and interests. The claimant was a very long serving employee with a deep knowledge of the respondent's products, systems and structures. Mr Hugh and Ms Taylor were also conscious that the restructure would result in the claimant's role becoming redundant. Ms Moodie, who had been a good friend of the claimant having started work with him around the same time, was also of the view that the claimant would be the ideal candidate for the role.
16. The claimant was invited to a meeting with Mr Hugh and Ms Walsh who was his line manager on his return from leave on 9 May. The subject of the email invitation was 'OD Regroup'. The claimant was not given any other information in relation to what was to be discussed at the meeting.
17. Mr Hugh and Ms Walsh explained the new proposed structure to the claimant and the implications for him and his team. They proposed to him that a role within the TTP3 project as Head of Deployment would be a good fit for him.
18. The claimant was positive about the responsibilities of the role which was suggested and expressed the view that it would be a good fit for his skillset. However, he expressed concern at having to report to Ms Moodie. He expressed a negative view of her leadership style and abilities. Mr Hugh

was taken aback by the claimant's reaction to the proposal. He encouraged the claimant to speak to Ms Moodie directly to find out more about the role. While the claimant did not reject the role, he made clear that he would be pursuing alternatives both internally and externally.

5 19. The claimant then communicated the changes to his team. A further meeting between the claimant, Mr Hugh and Ms Walsh took place at the end of the day on 9 May to revisit matters. There was a discussion regarding how the claimant's team had reacted to the news of the restructure and this was said to be on the whole positively received with one
10 exception.

20. Ms Walsh had to leave the meeting and Mr Hugh and the claimant went on to discuss the claimant's position. The claimant queried why consideration hadn't been given to the position of others in particular the Head of B2B and Head of Member Proposition. Mr Hugh indicated that consideration had
15 been given to creating a pool for redundancy including those roles, but a decision had been taken that this was not appropriate as the roles were not sufficiently similar. The claimant continued to raise concerns at having to report to Ms Moodie in the new proposed role. He was encouraged to speak to Ms Moodie directly to discuss the role.

20 21. The claimant met with Ms Moodie the following day. The meeting was extremely difficult for both individuals. The claimant made clear that he did not want to report to Ms Moodie. He questioned her capabilities in relation to management. Ms Moodie encouraged the claimant to engage with her and to shape the role so that it would be suitable for him. The claimant did
25 not wish to discuss the role further and made clear that he would be looking for alternative employment. Ms Moodie then told Mr Hugh that in her view the claimant had no appetite for the role, did not want to be involved in shaping the role and did not want to work for her.

22. A further meeting took place on 12 May between the claimant, Mr Hugh and
30 Ms Moodie. This meeting was even more difficult than previous meetings. The claimant indicated that he was 'disgusted at the process'. The claimant

5 kept interrupting Ms Moodie when she sought to give him more information about the role and what it would involve. The claimant's conduct was not professional during the meeting. Tensions were extremely high and both the claimant and Mr Hugh raised their voices during the meeting. The claimant did not engage in any constructive dialogue regarding the proposed role and continued to make it clear that he did not want to work for Ms Moodie, would be looking for alternative roles and did not want to work for the company anymore.

10 23. Thereafter Ms Moodie, Mr Hugh and Ms Taylor discussed matters and decided that the claimant should no longer be offered the role in the TTP3 project. Their decision was based on the claimant's clear objections to working with Ms Moodie and that while he had not refused to take the role, he would not be committed to the role as he would be looking for alternative work. The respondent was entitled to come to the view that the claimant
15 was not interested in taking the role on a permanent basis and would only be doing so until he found another role. The respondent was entitled to conclude that there would be difficulties in the working relationship between the claimant and Ms Moodie and this was likely to have a negative impact on the delivery of the project.

20 24. A meeting then took place on 18 May with the claimant, Mr Hugh and Ms Taylor at which the claimant was informed that he was at risk of redundancy and that a decision had been taken that he was no longer considered suitable to take on the TTP3 role which had previously been discussed.

25 25. The respondent has a staff forum called the Phoenix Colleague Representation Forum ('PCRF') with whom they consult regarding various matters including redundancies. When a redundancy is proposed the respondent will put together a business case document which is provided to the PCRF for information and discussion. Mr Taylor and Mr Hugh prepared such a document which was dated 17 May 2023 (at page 87 in the bundle)
30 which was provided to the PCRF. This was then discussed with PCRF around 18 May. No objections were voiced in relation to its contents.

26. The claimant had an email exchange and then a meeting with Ms Izat who was the Director of the Workplace business stream and to whom Mr Hugh reported. At the meeting which took place around 25 May, the claimant again expressed his concern about the TTP3 role and said that he was not willing to report to Ms Moodie. He repeated that he did not think she was a good leader and did not like her management style. He also said that he intended on leaving the organisation and obtaining alternative employment. Ms Izat asked him if she could wave a magic wand, was there anything she could do. The claimant said there was not as things had gone too far.
27. A consultation meeting then took place on 26 May with the claimant. He was accompanied at that meeting by a PCRF representative. Ms Taylor and Mr Hugh were also present. The claimant raised a number of concerns regarding the process to date. He suggested that there should have been a wider pool of selection including Head of Member Proposition and Head of B2B. He said the process had not been transparent. He also suggested that it was not accurate to say that there were no alternative roles which would have been suitable for him. He was asked to identify what roles he was referring to but refused to do so.
28. The key points of the meeting were incorporated into a note drafted by Ms Taylor who circulated this. Both the claimant and the PCRF representative added comments to the note.
29. Mr Hugh then met with the PCRF representative on 1 June prior to which she had been provided with a document setting out the comparison of roles which the claimant had suggested ought to have been pooled with his role for consideration for redundancy together with a list of alternative roles which were available but had not been considered as suitable alternatives to the claimant's role.
30. A first formal consultation meeting then took place with the claimant at which Mr Hugh and Ms Taylor were present on 8 June. At that meeting the claimant requested further information on the timing of the decision not to pool his role with that of others. He was asked whether he wanted to make

a request for the respondent to reconsider this decision. However, the claimant's position was that this was not a decision for him to take but for the respondent to decide whether it should be reconsidered or not. The claimant also asked whether he would be able to go on garden leave during his notice period if his redundancy was confirmed. The claimant confirmed that he did not intend to apply for any internal roles. A letter was then sent to the claimant confirming what had been discussed at the meeting and next steps. The letter referred the claimant to information on the intranet regarding redeployment and current vacancies.

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10 31. Mr Hugh emailed the claimant and his PCRF representative on 14 June with information on the timeline regarding the decisions on pooling. The document which had previously been provided to the PCRF in that regard was also sent to the claimant.

15 32. A further meeting took place on 20 June at which the claimant's provisional redundancy was confirmed to him. The claimant indicated at that meeting that the document setting out the logic in relation to pooling was 'biased, not fit for purpose and had been written to justify a decision'. He also reiterated that there was at least 1 if not 2 roles he should have been matched to but did not provide details of such roles despite being asked. His position was that he was aware consideration had been given to matching him to the role in question and deemed not to be a match. He indicated that he would not challenge the process internally but would do so externally.

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25 33. A final meeting took place on 28 June at which the claimant was informed that he was being dismissed by reason of redundancy with effect from 28 September. The claimant was informed that he was not required to work his notice period and that he could go on garden leave until his employment terminated. A letter was subsequently sent to him confirming the position, setting out his entitlements and advising him of his right to appeal against the decision. The claimant asked at that meeting for a copy of the advert for the role in the TTP3 team which was subsequently sent to him. He was advised that although the closing date for applications had passed, if he

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wished to follow up on the role he should contact the respondent as soon as possible. He did not contact the respondent.

34. During his notice period the claimant was sent lists of available positions with the respondent. He did not apply for any roles and did not appeal
5 against his dismissal.

35. The claimant commenced alternative work on 10 October 2022 at a higher salary than his previous role.

36. Although the claimant had declined to raise a grievance or other formal complaint in relation to an allegation made by him that he had been bullied
10 by Mr Hugh during the redundancy process, the respondent decided to commence an investigation. The investigation concluded that there was no evidence that Mr Hugh had bullied the claimant.

Observations on the evidence

37. The Tribunal found all the witnesses to be generally credible. It was clear
15 that the claimant was extremely aggrieved at how he had been treated, particularly in view of his very long service. However, there was in truth little dispute on the facts of the case. While initially it appeared to be the respondent's position that the claimant had refused to take up the offer of the role in TTP3, it became clear that the claimant did not refuse the offer,
20 rather the respondent concluded that it would not be appropriate to appoint him to that role, principally because he made it clear he would not take it for a long term period because he did not wish to report to Ms Moodie.

38. The other area in which there was potential dispute was whether the claimant was told in advance of his holidays that he and his team would be
25 'lifted and shifted' to the new structure. Although the claimant was adamant that he had been told this, he did not point to any documentation or specify any particular meeting when this was communicated to him. Rather, the Tribunal concluded that Mr Hugh had simply allowed the claimant to believe that this was the position as if he challenged it, Mr Hugh would then have to
30 deal with the consequences of the communications regarding the

restructure earlier than was intended. The possibility of this structure had no doubt been discussed at an earlier stage, but the Tribunal concluded that no firm decision was ever communicated to the claimant regarding the final structure until his return from leave.

- 5 39. The dispute between the parties focussed on whether or not the procedure followed in dismissing the claimant was unfair or not.

Issues to determine

10 40. As the claimant conceded that the Tribunal would not be able to make any award of compensation if he was successful in his claim, because he now received a higher salary than his previous role and his contractual redundancy payment would have to be set off against any losses, the Tribunal was not required to consider the issue of remedy. Therefore, the issues to be determined were:

- 15 i. Was the claimant dismissed for a potentially fair reason (being either redundancy or some other substantial reason)?
- ii. If the claimant was dismissed by reason of redundancy, was there a genuine redundancy situation?
- iii. Was the claimant's dismissal fair or unfair in all the circumstances?

Relevant law

20 41. Section 139 (1)(b) Employment Rights Act 1996 ('ERA') sets out the definition of redundancy as being where the requirements of a 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,

25 have ceased or diminished or are expected to cease or diminish.

42. Redundancy is a potentially fair reason for dismissal in terms of section 98(2) ERA, as is 'Some other substantial reason'. It is for an employer to demonstrate the reason for dismissal and that it was a potentially fair reason.

43.If an employer establishes a potentially fair reason for dismissal, then a Tribunal is required to consider whether the dismissal is fair in terms of section 98(4) ERA. This provides that the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer) — (a) depends 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 (b) shall be determined in accordance with equity and the substantial merits of the case.

44.In the case of **Williams and ors v Compair Maxam 1982 ICR 156**, the Employment Appeal Tribunal set out factors which were relevant to the question of fairness in a redundancy dismissal. In particular:

- i. Were any selection criteria objectively chosen and fairly applied?
- ii. Were employees warned and consulted about the redundancy?
- iii. If there was a union, were their views sought? and
- iv. Was any alternative work available?

45. In relation to the final factor, the Court of Appeal in the case of **Thomas and Betts manufacturing Co v Harding 1980 IRLR 255** ruled that an employer should do what it can so far as is reasonable to seek alternative work.

46.It is also worth noting that an employer may still be obliged to offer an employee alternative employment in circumstances where the employee would not have accepted the offer (see **Brown v Gavin Scott t/a Gavin Crawford EAT 149/87**) if such a failure amounts to a failure to properly consult with an employee who is at risk of redundancy.

Submissions

47.The respondent's agent outlined the findings in fact which it invited the Tribunal to make. He then went on to submit that there was a redundancy in

terms of section 139(1)(b) and that the respondent had acted fairly in terms of section 98(4) ERA.

5 48. In the first instance it was said that there had been a fair system of selection in place. The question of pooling was subject to the reasonable responses test and the respondent had genuinely applied its mind to the matter.

10 49. It was then said that there had been a genuine and meaningful process of consultation which was fair and thorough. Finally, it was said that the respondent had discharged its obligation to consider alternative employment. The claimant was not appointed to the TTP3 role because he was not committed to it and based on his behaviours during the meetings with Mr Hugh to discuss the role, it was no longer thought that the claimant was a good fit for the role. The claimant could have applied for the TTP3 role which was advertised but chose not to do so. Mr Hugh had considered whether the role of Bid Manager but did not believe it was a suitable
15 alternative.

50. It was also said that even if the claimant was not dismissed by reason of redundancy, then he was fairly dismissed for some other substantial reason being the business reorganisation.

20 51. The claimant highlighted three areas which he said resulted in his dismissal being unfair. Overall, he said that due process was not followed. He highlighted inconsistencies between the respondent's grounds of resistance and the evidence which was given at the hearing.

25 52. The claimant said that raising concerns about the TTP3 role did not justify the respondent in withdrawing the offer of that role. He then said that in relation to the Bid Manager role, there was no effort on the part of the respondent to understand how close a match he was to the role. He said that Mr Hugh did not properly understand the scope of the claimant's role. Finally, he said that he should have been placed in a pool for selection with the Heads of Member Proposition and Head of B2B.

Discussion and decision**Was the claimant's role redundant?**

53. Although the claimant suggested in submissions that he did not accept that his role was redundant, he had not led any evidence to suggest that this was the case, nor challenged the respondent's witnesses on the matter. The claimant's focus was on alleging that the redundancy was unfair for three distinct reasons.

54. Nonetheless, the Tribunal considered whether the claimant's role was redundant in terms of section 139 ERA. It was satisfied that it was. The decision of the respondent was that the work of the claimant's team should effectively be incorporated into the work of two other teams. On that basis there was no longer a requirement for anyone to lead that team. There was no longer a requirement for someone to manage a team whose work was being incorporated into other teams.

55. The claimant's challenges to his redundancy were focussed on three issues, which he said rendered his dismissal unfair.

- i. He should have been offered the role in TTP3 which was initially discussed with him;
- ii. His role should have been pooled with the other Heads roles of the two teams into which his team was being incorporated; and
- iii. He should have been offered the Bid Manager role as suitable alternative employment.

TTP3 role

56. The claimant's position was that the TTP3 role was a suitable alternative for him and that he would have taken the role, albeit he conceded that he would be looking for alternative roles both internally and externally.

57. There was no dispute between the parties that the TTP3 project was a strategically important project for the respondent, involving the outsourcing

of its IT and other systems to an external provider. The claimant had been identified as suitable for the role because of his significant experience and in-depth knowledge of the respondent's products and systems. While the role was different in material respects from the role which was to be made
5 redundant, the claimant's view was that it was a better fit for his skills and experience.

58. Had that been the end of the matter, the Tribunal would have been in no doubt that the failure to formally offer him the role would have rendered his dismissal unfair. As referred to above the consideration of alternative
10 employment for employees who are at risk of redundancy will be a relevant factor in determining whether a dismissal is fair. The question of the reasonableness of an employer's decision in this regard should be considered within the terms of what is referred to as the band of reasonable responses of a reasonable employer. Therefore, the Tribunal should
15 consider whether the failure to offer this role to the claimant was within the band of reasonable responses in the particular circumstances.

59. In considering whether the decision was reasonable, it is relevant to take into account the claimant's reaction when the role was discussed with him. While it was no doubt a shock to the claimant to find out that his role was to
20 be made redundant, and he was aggrieved at not having been more involved in the decision-making process of the restructuring, his reaction to the role was not wholly positive to put it mildly. The claimant's reaction was that while the role itself was a good match for him, but that he did not want to work for Ms Moodie who was responsible for the overall project. He made
25 clear he did not think she was a good manager and did not like her management style.

60. If the claimant had only reacted negatively regarding the role at the first meeting with him to discuss it, again, the Tribunal may still have concluded that it would have been reasonable to have offered him the job. The
30 respondent would have been expected to have taken into account that this was the first time the claimant was aware that he was at risk of redundancy and made allowances for his reaction. However, the claimant reiterated his

position that he did not wish to report to Ms Moodie and he would be looking for another role on a number of occasions to a number of different people over a number of weeks. It was clear to the Tribunal that the claimant's reaction to reporting to Ms Moodie would make an effective working relationship between them almost impossible.

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61. Therefore, in the particular circumstances of this case, where the role itself was of such strategic importance to the respondent, it was reasonable of the respondent to want to ensure that the person in the role was committed to it. As the working relationship between the claimant and Ms Moodie already seemed to have broken down, and the claimant was clear he would be looking for another role it was reasonable of the respondent not to offer the role to the claimant as alternative employment.

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62. The respondent had indicated that one of the reasons for no longer considering the claimant suitable for this role was the risk associated with the claimant's conduct towards the external partner with whom the claimant would have to work. Had that been the only reason for the respondent's decision, that would have been unreasonable. Although the respondent expressed concern that there was a risk the claimant would not behave appropriately towards the third party, this issue was not discussed at all with the claimant and there was no evidence to suggest that the claimant would not have behaved professionally with external suppliers.

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Should the claimant's role have been pooled?

63. The claimant's position was that his role should have been pooled with that of Head of Member Proposition and Head of B2B Proposition. The claimant appeared to accept that these roles were not interchangeable with each other or his role, albeit he did seem to change his position at various points in his evidence in this regard. The Tribunal concluded that the respondent's view that these roles were not interchangeable was a reasonable position to adopt.

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64. The Tribunal was mindful that the logic of not creating a pool for selection had been shared with the PCRF who had no objection to the respondent's

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5 decision. The claimant's view was that the document which was created by Mr Hugh to show 'his workings' in deciding that the claimant's role should be considered separately was biased and not fit for purpose. The Tribunal did not agree with that assessment. While the claimant may well take a different view to the assessment of his role in comparison to the other roles, the decision had been taken during a process to find out more about each area of work, its activities and responsibilities. All three individuals had reported to Ms Walsh who had been involved in the process and consulted about it. The document created set out in a logical and coherent manner the differences between the roles and the Tribunal was of the view that the decision not to pool the roles was a reasonable one in all the circumstances. While there was no doubt that the claimant would have had some of the skills required to undertake either remaining role, that was not the exercise involved in the decision-making process. Rather, the respondent was looking at the roles not the people in the roles and determining whether the roles were sufficiently similar to merit a pooling exercise. This was a reasonable approach for the respondent to take.

Should the claimant have been offered the role of Bid Manager?

20 65. The claimant's third challenge was that the role of Bid Manager should have been offered to him. This was a new role. The respondent had considered whether it was a match to the claimant's current role and concluded that it was not. The claimant's position appeared to be that it was for the employer to identify suitable roles for him and that he had no responsibility whatsoever to take part in that process. That was not a constructive approach to take. While an employer should take such steps as are reasonable to identify alternative employment, this is not a one-way process. When the claimant indicated that he thought there was another role which he should have been offered, the respondent asked for details. The claimant refused to identify the role. That was not constructive. The Tribunal was satisfied that had he identified the role, the respondent would have given consideration to this. Indeed, it would not have been reasonable for the respondent, being aware of another role in which the claimant was interested, to fail to give consideration to this.

66. The claimant's position was that Ms Taylor knew what role he was referring to, however he did not put this to her in cross examination. The Tribunal accepted that neither Ms Taylor nor Mr Hugh knew what the claimant was referring to when he said there was another role he should have been considered for. The claimant also suggested that there would have been no point in taking this role further as Mr Hugh would not have considered him for any roles. The Tribunal did not accept this. Again, this was not put to Mr Hugh in terms, and while Mr Hugh had concluded that the claimant should not be offered the TTP3 role for the reasons outlined above, there was nothing to suggest that the claimant would not be offered any other role.

67. In these circumstances, the failure of the respondent to offer the claimant this role did not render the dismissal unfair.

68. In any event, the Tribunal was mindful that the claimant had made clear that he would be looking externally for a new job. While the Tribunal was mindful that simply because there was no likelihood of an employee taking a role did not mean that such roles did not have to be offered to them, the Tribunal was satisfied that the claimant had decided at an early stage in the process that he did not want any role with the respondent.

69. The Tribunal formed this view as the claimant did not engage in any meaningful way with the respondent during the consultation process. His position was that he should not have to identify any other suitable roles, he should not have to apply for any roles and he did not need to make clear that he would take the TTP3 and work effectively with Ms Moodie for the period required. The claimant did not appeal the decision to dismiss him and did not take any steps to identify who might be responsible for making a decision on an appeal. It was not at all clear to the Tribunal what reason there could be for the claimant not to appeal the decision unless he had no intention of continuing to work for the respondent in any role.

70. The Tribunal had considerable sympathy with the claimant particularly in relation to him discovering that his role was to be made redundant immediately after a return from annual leave and in view of his long service.

The respondent could and perhaps should have approached matters differently and given the claimant more information in advance of informing him of the outcome of the restructure. However, the Tribunal was satisfied that the claimant's role was redundant, that the respondent had conducted a fair process in dismissing the claimant and had properly consulted with him and attempted to identify alternative work for him. In these circumstances, his dismissal was fair.

71.If the Tribunal is in error in concluding that the claimant's position was redundant, then the Tribunal is satisfied that the claimant was dismissed for some other substantial reason, being a business reorganisation and that for reasons set out above, the respondent adopted a fair procedure in dismissing the claimant.

72.The claimant's claim therefore falls to be dismissed.

Employment Judge: A Jones
Date of Judgment: 03 July 2023
Entered in register: 05 July 2023
and copied to parties

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