



EMPLOYMENT TRIBUNALS

Claimant: Ms. M. Mark

Respondent: Acton Vale Community Association

Heard at: London Central (by CVP)

On: 19 & 20 October 2023

Before: Employment Judge J Galbraith-Marten (sitting alone)

Appearances

For the Claimant: Ms. A. Amesu, Counsel

For the Respondent: Mrs. A. Kaur-Singh, Consultant

JUDGMENT

1. The claimant's claim for constructive unfair dismissal is well founded.
2. The complaint of breach of contract in relation to notice pay is well founded.
3. A remedy hearing of 3 hours will take place on Friday 26 January 2024 and directions are attached at Appendix A.

Case Number: 2206263/2023, 2202700/23 & 2206258/2023

Employment Judge J Galbraith-Marten

20 October 2023

SENT TO THE PARTIES ON

20/10/2023

FOR THE TRIBUNAL OFFICE

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

APPENDIX A

CASE MANAGEMENT ORDER

Made pursuant to the Employment Tribunal Rules of Procedure

Remedy hearing

1. A remedy hearing will take place on **Friday 26 January 2024** with a time estimate of 3 hours. This date was agreed by the parties, and it was agreed the hearing would take place via video.

Claims and Issues

2. The remedy issues in respect of the unfair constructive dismissal claim are: -
 - a) What basic award is payable to the claimant?
 - b) Would it be just and equitable to reduce the basic award because of any conduct of the claimant before the dismissal? If so, to what extent?
 - c) If there is a compensatory award, how much should it be? The Tribunal will decide:
 - What financial losses has the dismissal caused the claimant?
 - Has the claimant taken reasonable steps to replace her lost earnings?
 - If not, for what period of loss should the claimant be compensated?
 - Is there a chance the claimant would have been fairly dismissed anyway if a fair procedure had been followed, or for some other reason?
 - If so by how much should the compensation be reduced?
 - Did the ACAS Code of Practice on disciplinary and grievance procedures apply?
 - Did the respondent or the claimant unreasonably fail to comply with it?
 - If so is it just and equitable to increase or decrease any award payable to the claimant? By what proportion?
 - If the claimant was unfairly dismissed, did she cause or contribute to the dismissal by blameworthy conduct?
 - If so, would it be just and equitable to reduce the claimant's compensatory award? By what proportion?
 - Does the statutory cap apply?

Schedule of Loss

3. The claimant must send to the respondent and the Tribunal a schedule of loss by **3 November 2023**.

Counter Schedule of Loss

4. The respondent must by **1 December 2023** send to the claimant and the Tribunal a counter schedule of loss in response to the claimant's schedule of loss.

Remedy Documents

5. By **15 December 2023** the claimant and the respondent must send each other a list and copies of all documents they wish to refer to at the remedy hearing.

Remedy hearing bundle

6. By **5 January 2024** the parties shall agree the bundle to be used at the remedy hearing. The claimant shall provide the Tribunal with electronic copies of the bundle by **19 January 2024**.

Witness statements

7. The claimant and the respondent will provide full written witness statements containing all the evidence they and their witnesses intend to give at the remedy hearing and must provide copies of their written statements to each other on or before **12 January 2024**. No additional witness evidence will be allowed at the final hearing without the Tribunal's permission.

11. The written statements must be:

- typed in double or 1.5 line spacing;
- have numbered paragraphs;
- set out the relevant events in chronological order, with dates;
- contain all the evidence which the witness is called to give;
- be cross referenced where relevant to the documents in the bundle (including references to the page numbers of those documents);
- contain only evidence relevant to issues in the case;
- state the source of any information not acquired at first hand;
- be signed and dated.

12. By **19 January 2024** the parties shall file copies of all their witness statements to the Tribunal.

About these orders

13. These orders were made and explained to the parties at this preliminary hearing. They must be complied with even if this written record of the hearing arrives after the date given in an order for doing something.
14. If any of these orders is not complied with, the Tribunal may; (a) waive or vary the requirement; (b) strike out the claim or the response; (c) bar or restrict participation in the proceedings; and/or (d) award costs in accordance with the Employment Tribunal Rules.

15. Anyone affected by any of these orders may apply for it to be varied, suspended, or set aside.

Variation of dates

16. The parties may agree to vary a date in this order by up to 14 days without the Tribunal's permission provided it does not affect the hearing date. The Tribunal must be told about any agreed variation before it comes into effect.

Writing to the Tribunal

17. The parties are reminded of rule 92: "Where a party sends a communication to the Tribunal (except an application under rule 32) it shall send a copy to all other parties, and state that it has done so (by use of "cc" or otherwise). **If, when writing to the Tribunal, the parties don't comply with this rule, the Tribunal may decide not to consider what they have written.**

Useful Information

18. The parties may find it helpful to observe some other hearings before their hearing takes place. As we are conducting a number of hearings via video this is very easy to do. They can find out more by emailing: Centrallondonetpublicaccess@justice.gov.uk.

19. The attention of the parties is drawn to the following:

- The Tribunal's Rules of Procedure, which can be found at: <https://www.gov.uk/courts-tribunals/employment-tribunal>.
- Guidance which has been prepared by the President of the Employment Tribunals on managing cases generally, including preparing for a hearing, disclosure of documents and preparing and exchanging witness statement which can be found at: www.judiciary.gov.uk/publications/employment-rules-and-legislation-practice-directions/

20. The parties are also reminded of their obligation under rule 2 to assist the Tribunal to further the overriding objective and in particular to co-operate generally with other parties and with the Tribunal.

21. Public access to employment tribunal decisions – All judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decision shortly after a copy has been sent to the Claimant(s) and Respondent(s) in a case.

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