



EMPLOYMENT TRIBUNALS

Claimant: Mr David Steven Saxton

Respondent: Hinduja Global Solutions UK Ltd

Heard at: London South Employment Tribunal
On: 9th April 2024

Before: EJ W Brady

Representation

Claimant: Ms L Redman (Counsel)

Respondent: Did not attend

JUDGMENT

1. The Claimant's claim for unfair dismissal is not well-founded and is dismissed.
2. This means that the respondent fairly dismissed the claimant by reason of redundancy.

Reasons:

1. The Claimant was employed as an Operations Manager for the Respondent. The Respondent provides outsourced customer services across the UK. The Claimant was responsible for managing the day-to-day operation of single or multiple client campaigns within the Respondent's business. The Claimant's employment with the Respondent commenced on 2 November 2020 he was dismissed on 25th September 2023.
2. The Claimant claims unfair dismissal, the Respondent states that the dismissal was fair and by reason of redundancy.
3. The Claimant notified the Tribunal that he would not attend the final hearing due to the fact that he had to work. The case had been listed for a final hearing since December 2023. On 8th April 2024. Judge Heath considered the Claimant's application to postpone the hearing, but refused the application. The Claimant explained in further correspondence that he had been unable to request leave from work prior to the end of March 2024 and was not then allowed the time off work due to the fact that there was an

audit. I considered the overriding objective and decided that it was in the interests of justice that the case should proceed today. Even if the case had been adjourned today, the Claimant would not necessarily have been afforded the time off work to attend on another occasion, and the Respondent would, in the meantime, incur costs.

4. The Claimant had been informed by the letter on 8th April 2024 that the case would proceed in his absence.
5. Ms Redman for the Respondent made an application for the Claimant's claim to be dismissed under rule 37 due to his non-attendance today. In view of the fact that the Claimant had been told that the case would be heard today and that the contents of his claim and his witness statement would be considered, I decided that it was in the interests of justice to proceed with the case today and therefore I did not dismiss the case under rule 37.
6. The Respondent called witnesses Elaine Kelly and Martha Horton who gave evidence and confirmed that the contents of their witness statements were true and accurate.
7. At the start of the hearing, the following list of issues was agreed upon:
 - 7.1 Was the claimant dismissed?
 - 7.2 What was the reason or principal reason for dismissal? Respondent says redundancy.
 - 7.3 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.
 - 7.4 In particular whether:
 - 7.4.1 The Respondent adequately warned and consulted the claimant
 - 7.4.2 The Respondent adopted a reasonable selection decision including its approach to a selection pool
 - 7.4.3 The Respondent took reasonable steps to find the claimant suitable alternative employment
 - 7.4.4 Dismissal was within the range of reasonable responses.

Facts:

8. The Respondent company specialises in business outsourcing and runs a number of different "campaigns" for a number of different organisations. The nature of the work is that it fluctuates and therefore staffing levels change depending on how many contracts have been secured for a given period.
9. The Claimant had been employed by the company since November 2020 as an Operations Manager.
10. During the first quarter of 2023, Ms Kelly, on behalf of the Respondent carried out a review of the Operations Team to understand whether any steps could be taken to increase its efficiency as there was a concern that the ratio of managers to agents within the Operations Team was too great.
11. After a full review, the Respondent decided that a restructure of the Operations Team was necessary in order to mirror the structure applied in other Operations Teams within the company and also to provide a clear career structure within the organisation.

12. As part of the restructure of the organisation new salary bands were introduced that were wider ranging than previous bands. Existing employees who were at risk of redundancy were invited to apply for the new roles.
13. The employees were informed of the restructuring process on 11th July 2023 by way of a Teams meeting. Employees were informed of the procedures, consultations and the application process.
14. The Respondent company decided not to offer voluntary redundancies but explained the procedure that was to be followed, and job descriptions were given to the employees. As part of the procedure, each employee would have an individual meeting to guide them through the process and to assist them with any applications.
15. On 12th July 2023 Mr Saxton applied for Operations Manager level 4 and Operations Manager level 5 under the new organisation.
16. On 17th July 2023, Ms Kelly held an individual redundancy consultation meeting with Mr Saxton with Ms Horton attending as a note taker. Mr Saxton was offered the opportunity to suggest any alternatives to redundancy. He confirmed that he had applied for the new roles.
17. On 24th July 2023, Mr Saxton attended interviews for the Operations Manager but just before the interview he left the office and refused to participate any further in the interview process.
18. Ms Horton contacted Mr Saxton by telephone to try and persuade him to continue with the process but he said that the redundancy consultation was having an impact on his health and wellbeing and he could not understand why he was being asked to apply for his current role. He declined to attend the interview, he was offered further time but said that he no longer wished to be considered.
19. On 8th August 2023 a second redundancy meeting was held with the Claimant via Teams. Ms Horton again acted as a note taker. During that meeting, the Claimant did not ask any questions or suggest any alternatives to redundancy. He said that he felt that his role was already redundant as he was only spending 20 percent of his time on a certain campaign.
20. On 18th August 2023, a third redundancy meeting was held. The Claimant did not initially attend the meeting so Ms Horton contacted him and was told that he did not want to sit with Ms Kelly. He asked for the consultation to be conducted in writing and that was done.
21. The Respondent company gave the Claimant formal notice of termination on 25th August 2023. He was asked to work one month's notice period and was paid a statutory redundancy payment plus an ex gratia payment of 1 month's notice (in addition to the month's notice period that he worked).

The Law:

22. Section 139(1)(b) of the Employment Rights Act states that there is a redundancy situation where the requirements of the business for employees to carry out work of a particular kind or for employees to carry out work of a particular kind in the place where they are employed have ceased or diminished.
23. It is for the Employer to prove the reason for dismissal was redundancy but then there is no burden of proof on either party and the issue of whether the dismissal was reasonable is a neutral one for the Tribunal to decide.
24. In the case of Williams and others v Compair Maxam Ltd 1982 ICR 156 the EAT laid down guidelines that a reasonable employer might be expected to

follow in making redundancy dismissals, but the test is whether the dismissal lay within the range of conduct which a reasonable employer could have adopted.

25. Those tests were outlined above as part of the list of issues:
- 25.1 Whether the selection criteria were objectively chosen and fairly applied
 - 25.2 Whether employees were warned and consulted about the redundancy
 - 25.3 Whether if there was a union the union's view was sought and whether an alternative work was available.

Conclusion:

26. The Claimant has said that he was unfairly dismissed and that the redundancy was a "sham" and a cost-cutting exercise. Although the Claimant was not present today, I have considered his case and his witness statement.
27. I heard evidence from Ms Kelly who explained in detail why restructuring was necessary for the Respondent company and the reasons behind it. A thorough review had been carried out before the decision to restructure was decided upon. I found both Ms Kelly and Ms Horton to be straightforward, credible witnesses. Ms Kelly's evidence was that work had diminished so that employees became surplus to requirements which led the company to restructure and reorganise which resulted in a more efficient use of labour. I found that this was an accurate account of the situation within the company and that this was a true redundancy situation within section 139(1)(b) of the Employment Rights Act 1996 (ERA).
28. I therefore find that the reason for the dismissal was redundancy.
29. I then considered whether the respondent company acted reasonably, I find that they did. They individually consulted all affected employees 3 times and offered the Claimant opportunities to apply for the new posts. When the Claimant withdrew his application, they checked that he was sure that he wanted to do so and tried to support him. The fact that the Claimant failed to engage fully in the redundancy process was not due to any unreasonableness on the Respondent's behalf.
30. I therefore find that the Claimant's claim is unfounded and dismiss the claim for unfair dismissal.

Employment Judge W Brady

Dated: 29 April 2024

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.

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