



EMPLOYMENT TRIBUNALS

Claimant: Mr H Khan

Respondent: Rams & Co Ltd (in Creditors Voluntary Liquidation)

HELD at Leeds by CVP **ON:** 19 June 2024

BEFORE: Employment Judge Shulman

REPRESENTATION:

Claimant: Mr S Roxborough, Counsel

Respondent: Did not file a response, nor appear nor was the respondent represented

JUDGMENT

The claimant was unfairly dismissed. It is ordered that the respondent shall pay to the claimant £21,901.97 by way of compensation.

REASONS

1. Introduction

In this case Mr Khan was employed by Rams & Co Ltd as a cashier from 18 December 1999 until his dismissal on 30 September 2023. The claimant complains to this Tribunal that he was unfairly dismissed.

2. Issues

The issues relate to what was the reason for dismissal and whether the dismissal was fair, including whether fair procedures were followed by the respondent in dismissing the claimant.

3. The Nature of the Claim

The claimant made a claim of automatically unfair dismissal on the ground that he was unfairly dismissed because he made a protected disclosure. The claimant withdrew this claim and pursued a claim for unfair dismissal under section 98 Employment Rights Act 1996.

4. Facts

The Tribunal having carefully reviewed all the evidence (both oral and documentary) before it finds the following facts (proved on the balance of probabilities):

- 4.1. There was some history between the claimant and the respondent but for the purposes of this decision it is not necessary to go into the facts prior to 15 September 2023 when the claimant was invited to an investigatory meeting.
- 4.2. At that meeting Mr Maharajan of the respondent presented allegations of conduct on the part of the claimant which the claimant denied.
- 4.3. On 19 September 2023 the claimant was invited to a disciplinary hearing which took place on 28 September 2023 when the following allegations of misconduct were made:
 - 4.3.1. The claimant slandered and disrespected staff and management;
 - 4.3.2. That he threatened and behaved aggressively to Qazi Naveed UR Rehman;
 - 4.3.3. That employee Shazaad Shahpal lodged a grievance that the claimant was not liked;
 - 4.3.4. That the claimant sent Mr Maharajan bullying, threatening and harassing messages; and
 - 4.3.5. The claimant constantly bombarded Romtec management with messages when he had been told to stop.
- 4.4. On 30 September 2023 the claimant was summarily dismissed for the following:
 - 4.4.1. Abusing the chance to avoid dismissal;
 - 4.4.2. On the basis of documentation that the claimant had not seen;
 - 4.4.3. That Mr Maharajan was a witness to the allegation of threatening and aggressive behaviour in the direction of Qazi Naveed UR Rehman;
 - 4.4.4. The respondent assumed the content of Shazaad's grievance to be true and that the claimant's responses were false, malicious and detrimental; and
 - 4.4.5. That CCTV footage showed the claimant taking coffee without leaving a receipt in the staff purchase folder and also sitting on a chair whilst serving a customer.
 - 4.4.6. The respondent objected to the claimant reporting a theft by Shaz to Mr Maharajan and Romtec.
- 4.5. The claimant appealed against the decision dated 6 October 2023.
- 4.6. There was an appeal hearing on 13 November 2023 that the claimant's grounds of appeal were misconstrued and there was further complaint at the

appeal hearing about the claimant's work. In particular that he failed to take care and attention in his role as a sales assistant and that he deliberately refused to perform his job which was a completely new allegation and the appeal was not upheld.

5. Determination of the Issues (After listening to the factual and legal submissions made by and on behalf of the respective parties):

5.1. The Tribunal finds that the reason for dismissal was not made out no evidence being called on the part of the respondent.

5.2. The Tribunal finds that the dismissal was unfair.

5.3. The Tribunal finds that the claimant did not contribute to his dismissal.

6. Remedy

6.1. The claimant elected for reinstatement which was not possible because the respondent was in creditors voluntary liquidation.

6.2. The Recoupment Regulations apply (see annexe for explanation of their effect).

6.3. The Tribunal has awarded compensation as follows:

6.3.1. Basic award – gross weekly pay £333.44 x 20 x 1.5 = £10,003.20

6.3.2. Compensatory award – the claimant's net average pay was £302.24 and his immediate loss is 37 weeks and 5 days making a total of £11,398.77. The Tribunal does not award future loss. Although the claimant applied for a number of jobs in the two months before the hearing there is no evidence that he applied for any jobs in the six months following dismissal. He also received six months' notice. In the circumstances relating to job applications the Tribunal finds that the claimant failed to mitigate his loss further than aforesaid.

6.3.3. The Tribunal awards the claimant for loss of statutory employment rights the sum of £500.

6.3.4. Grand total £21,901.97.

6.3.5. Prescribed element - £11,898.77.

6.3.6. Period of prescribed element 30 September 2023 to 19 June 2024.

6.3.7. Excess of Grand Total over prescribed element £10,003.20

Employment Judge Shulman

Date: 22 July 2024

Note - 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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