



# THE EMPLOYMENT TRIBUNAL

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**SITTING AT:** LONDON CENTRAL  
**BEFORE:** EMPLOYMENT JUDGE ELLIOTT  
**BETWEEN:**

Mr B Zamani

Claimant

AND

DAZN Media Services Ltd

Respondent

**ON:** 15 and 16 August 2024

**Appearances:**

**For the Claimant:** In person

**For the Respondent:** Ms E Skinner, counsel

## **REASONS FOR JUDGMENT**

1. This decision was given orally on 16 August 2024. On 2 September 2024 the claimant requested written reasons. The Judge apologises to the claimant for the delay in sending these reasons. The Judge was not made aware of the request for reasons until 11 October 2024.
2. By a claim form presented on 8 April 2024, the claimant Mr Bahram Zamani brings claims of unfair dismissal and for a redundancy payment.
3. The claimant worked for the respondent from 10 September 2018 to 31 December 2024 as a software engineer.

### **This remote hearing**

4. The hearing was a remote public hearing, conducted using the cloud video platform (CVP) under Rule 46. The parties agreed to the hearing being conducted in this way.
5. In accordance with Rule 46, the tribunal ensured that members of the public could attend and observe the hearing. This was done via a notice published on Courtserve.net. No members of the public attended.
6. The parties were able to hear what the tribunal heard and see the witnesses as seen by the tribunal. From a technical perspective, there

were no difficulties.

7. The participants were told that was an offence to record the proceedings.
8. I checked that the witnesses, who were all in different locations, had access to the relevant written materials. I was satisfied that neither of the witnesses was being coached or assisted by any unseen third party while giving their evidence.

### **The issues**

9. The issues were clarified with the parties at the outset of this hearing as follows:
10. What was the reason, or principal reason for dismissal? The respondent asserts that the reason for dismissal was redundancy which is a potentially fair reason under section 98(1)(c) Employment Rights Act 1996.
11. Did the respondent act reasonably or unreasonably in all the circumstances, including the respondent's size and administrative resources, in treating that reason as a sufficient reason for dismissal? This will include a consideration of equity and the substantial merits of the case.
  - a. Was there adequate consultation with the claimant?
  - b. Was there fair selection?
  - c. Did the respondent take reasonable steps to find suitable alternative employment for the claimant?
  - d. Was dismissal within the range of reasonable responses?
12. Was the claimant redundant and if so, was he paid a redundancy payment? The claimant accepted that he was paid a redundancy payment but was not sure that it was the right amount.
13. The numbers involved in the redundancy exercise triggered the collective consultation provisions under section 188 Trade Union and Labour Relations (Consolidation) Act 1992 but this was not a claim concerning collective consultation.
14. At the outset the name of the respondent was changed by consent to DAZN Media Services Ltd.
15. The claimant said at the outset that he wanted to complain about his sick pay. This was not part of his claim. He complained that he had not been advised by the respondent about his rights to sick pay. I told the claimant that he could put questions to the respondents witnesses about this if he wished, in terms of the fairness of the process.

### **Witnesses and documents**

16. There was an electronic bundle of 301 pages.
17. The tribunal heard from the claimant. He provided a statement from a former colleague, Rehan Ahmad, who did not attend to give evidence. I read this statement but could only give limited weight to it as the witness did not attend.
18. For the respondent the tribunal heard from 3 witnesses, (i) Mr James Lelyveld, who at the relevant time was SVP, Platform Engineering. He left the respondent's employment in December 2023, (ii) Ms Amy Bowden, Head of People and at the relevant time as People Partner and (iii) Ms Sukhvir Reese, Head of Employee Relations and prior to September 2023 as an Employee Relations Consultant.
19. The tribunal had oral submissions from both parties. All submissions were fully considered, whether or not expressly referred to below.

### **Findings of fact**

20. The claimant worked for the respondent from 10 September 2018 to 31 December 2023 as a software engineer (contract page 57). The respondent is a sports streaming and entertainment platform, over the internet.
21. The respondent's case was that the claimant was dismissed by reason of redundancy. The claimant complained in his claim form (bundle page 8) that he was made redundant after having health issues in June 2023 and he asserts that his health issues were partially caused by stress at work caused by the uncertainty of a redundancy exercise. I make no findings as to what caused the claimant's health issues, as this was not a matter for determination in this case.

### **The claimant's role**

22. The claimant's contract of employment was at page 57. It showed his place of work as Hammersmith, London. His contractual notice period was 1 month. Since the onset of the pandemic the claimant worked remotely. He did not attend the office regularly.
23. The claimant's job role involved testing activities, developing automated tests and performing manual test for the respondent's platform. From October 2022 to October 2023 the claimant's line manager was Dean Milner who has since left the business. From 16 October 2023, close to the end of the redundancy exercise, the claimant was managed by Mr James Lelyveld, SVP Platform Engineering.
24. In September 2023 the testing team in which the claimant worked was based across four locations: London, Amsterdam, Poland and India.

Those software engineers involved in testing activities were mainly located in London and Poland.

#### The redundancy proposals

25. It was in September 2023 that the respondent began an extensive consultation exercise across the business, aimed at creating greater operational efficiency and cost saving. It included a proposal for the product engineering function in Hammersmith, to be transferred to Poland and India.
26. There was a detailed collective consultation document dated 11 September 2023 starting at page 82. It set out the reasons for the proposals, the number of proposed redundancies, the process to be followed and a timeline.
27. The consultation document set out proposal to relocate activities in Product Engineering from the UK to Poland. This was said to be because the majority of the activity took place in Poland and it gave an opportunity to place the activity in one location (page 93). All UK software engineers based in London, were at risk of redundancy.
28. Staff were told that they would be given first preference for internal vacancies, a reasonable amount of time off to seek employment and training, support with job applications and access to the Employee Assistance Programme (page 106). The claimant accepted that he was told this.
29. The 45-day collective consultation period was due to close on 27 October 2023 and the final consultation meetings and potential dismissals were due to take place by 30 October 2023 at the earliest.

#### The first team briefing

30. On the morning of 12 September 2023 Mr Milner held a team briefing meeting with all affected employees working in software testing roles to inform them of the proposals. There was a Team Briefing document at page 113.
31. Later that day, on 12 September Mr Milner sent the claimant a letter putting him at risk of redundancy (page 124-127). The claimant accepted that he received this. The letter said:

*"I write following our meeting with you on 12th September 2023 we explained that the focus of the technology function for the medium and longer term is to create greater operational efficiency, and enabling growth in a cost-effective manner. The proposal is for the testing capability to be co-located close to the engineering domains they support, and this means the test department will be proposed to be predominantly co-located across Poland and India, where the*

*engineering domains are predominantly located. As a result, the work held by this role in London is proposed to transfer to Poland, aligned with the domain team they support, Product Engineering. Therefore, you were made aware that a redundancy situation has arisen within the department and that your role is at potential risk of redundancy.”*

32. The claimant said he did not agree with the content of the letter but accepted that he received it.
33. The claimant accepted that he was told that his proposed last day of service, if the redundancy went ahead, was likely to be 30 October 2023 (page 120). The letter enclosed Redundancy FAQs and the claimant accepted that he received this. The collective consultation process went in parallel with individual consultation.

#### The first individual consultation meeting

34. In the letter dated 12 September 2023 the claimant was invited to his first individual consultation meeting, to take place on 15 September 2023. For all consultation meetings he was informed of his statutory right to be accompanied (such as page 126) and informed as to how he could access the Employee Assistance Programme (EAP) and a dedicated mental health support App.
35. The first consultation meeting took place on 15 September between the claimant and Mr Milner. The notes of the meeting were at page 155. The claimant chose not to be accompanied. Mr Milner explained the reasons for the redundancy proposals and the claimant was asked if he had any questions. He replied “No”, he did not have any questions.
36. When asked about his thoughts about avoiding redundancies the claimant said: “*Preference would be working with a team in London, but only team is [the] playback team*”. The claimant said he was unclear whether there were any opportunities with that team in London. The claimant later contacted the playback team and found out that there were no vacancies.
37. The claimant was told about the timelines and had no questions on this.
38. The claimant was informed about the internal vacancy board. Mr Milner recommended that the claimant check this regularly. The claimant said in evidence that he did check this regularly and there were no vacancies. He was asked if there were any specific roles that would be of interest. He said there were not, but he would look and consider the options. The claimant was also offered access to a member of the Talent Acquisition team to help support him with his job search.
39. The claimant was told that his notice period was 1 month. He said he thought it should be 2 months. Mr Milner said he would look into this

which he did. As a result the claimant's notice period was increased to 2 months to bring him in line with comparable employees. The EAP and mental health support App were again highlighted in that meeting.

40. The claimant accepted in evidence that he signed notes of the meeting (page 159) confirming that the above points were covered. The claimant said in evidence that he challenged the reasons for redundancy in this meeting. I find that he did not. There was no record of it in the notes that he signed, confirming that the relevant points were covered in the meeting.
41. I find that at no time did the claimant challenge the genuineness of the redundancy situation. He did not agree with the respondent's decisions on this, but he knew and accepted that the function in which he worked was being relocated to Poland. I find that the requirements of the respondent's business for the work the claimant was doing was going to cease in London and this was a genuine redundancy situation.
42. Whilst the claimant did not agree with the respondent's commercial reasons for the redundancy situation and the decision to move the function overseas, this is not a matter for the tribunal. It is for employers to make their own commercial decisions.

#### The second individual consultation meeting

43. The second individual consultation meeting took place on 28 September 2023 between the claimant and Mr Milner. Again, the claimant chose not to be accompanied.
44. The claimant was given the opportunity to raise questions and to discuss any alternatives he wanted to raise. He raised questions about his holiday pay and redundancy pay. In terms of alternative employment, he said he had contacted the playback team and there were no vacancies there (page 161). He also asked some questions about the respondent's employee representative forum and said he would contact them directly.
45. At that meeting the claimant said he intended to raise with HR an issue concerning his health, in case it affected the redundancy proposal. The claimant wanted an extension of his contract until at least March 2024. He was told that it could be extended to the end of December 2023.
46. Again the claimant accepted that he did not challenge the accuracy of the notes of the meeting at the time. I find that the matters referred to above were the matters discussed in that meeting.

#### Discussions between the claimant and Ms Bowden

47. Two Teams meetings took place between the claimant and Ms Amy Bowden on 20 September 2023 and 2 October 2023. At that time Ms

Bowden was a People Partner, she is now Head of People. Ms Bowden oversaw the redundancy exercise.

48. Details of the meetings were at pages 164 and 167. The claimant shared with Ms Bowden his health issues and also said he felt that the work environment had impacted his health. The claimant wished to find out whether the respondent would be prepared to postpone his redundancy until March 2024 or more helpfully June 2024, in the light of his health issues. He told Ms Bowden he thought it would be difficult for him to find a remote role which was his preference.
49. Ms Bowden said that unfortunately the respondent was unlikely to be able to support this, in view of the business case for the redundancies and their wish to treat all employees consistently. She suggested they have a further consultation meeting to discuss this, Ms Bowden also pointed the claimant towards sources of support and expressed her sympathy with the claimant concerning his health difficulties.
50. Ms Bowden confirmed the contents of those Teams calls in an email of 6 October 2023 (page 169).
51. The claimant replied on 7 October 2023 asking for his redundancy to be delayed until at least March 2024 and said that June 2024 would be more helpful. Ms Bowden asked the claimant to provide some medical information. The claimant provided a medical discharge summary (page 246) showing that he was discharged from hospital in June 2023.

#### The third individual consultation meeting

52. The third individual consultation meeting took place on 17 October 2023 between the claimant and his new line manager Mr James Lelyveld, SVP Platform Engineering. Ms Bowden attended as notetaker and she also participated (notes page 170).
53. In that meeting the claimant repeated his request for a delay to his termination date. He spoke about his health difficulties and said that he believed that the working environment had caused this. He said he wanted more time and to be placed on garden leave while he recovered. He wanted an extension to his termination date ideally until June 2024 but at least until March. The claimant confirmed that he did not raise his health concerns with his managers at the time they arose. Both Mr Lelyveld and Ms Bowden said that if the claimant had told them about his health difficulties at the time, they could have done more to support him.
54. The claimant told Mr Lelyveld that he was looking for a fully remote role which typically offered less salary. He said he was not looking for on-site or hybrid work.
55. Ms Bowden told the claimant that they were unable to change the termination date based on the circumstances he had raised.

Adjustments had to relate to business need. By this time the proposal for the claimant's termination date was 30 November 2023. Based on what had happened within another team, Ms Bowden was able to offer an extension to the termination date to 31 December 2023.

56. Ms Bowden sent an email to the claimant on 20 October 2023 confirming the details of that meeting and sent a copy of the notes. She also informed the claimant that they agreed to increase his notice period from one to two months to ensure consistency across comparable roles. The total amount of pay in lieu of notice paid to the claimant was £15,152.83.

#### The fourth and final individual consultation meeting and dismissal

57. The final individual consultation meeting took place on 30 October 2023 with Mr Lelyveld and Ms Bowden (notes page 177). The claimant said he felt his was a special case because of his health issues which he considered had been caused by the respondent. He mentioned taking his case to an employment tribunal and bringing a personal injury claim.
58. The claimant was informed at that meeting that the consultation period had concluded and they had been unable to find any suitable alternative roles, so the claimant was dismissed by reason of redundancy with a termination date of 31 December 2023. The claimant was informed of his right of appeal.
59. I find that the claimant questioned the timing of his redundancy dismissal but not the genuineness of the redundancy situation, which he did not raise in any of the consultation meetings. He was aware that everyone in his team was being made redundant.
60. The claimant was told that he was a valued member of the team and that they were sorry that his employment had ended this way. Mr Lelyveld told the claimant that the company very much regretted that it had become necessary to make redundancies and that he had been affected. He thanked him for his hard work and professionalism.
61. The dismissal was confirmed by letter dated 1 November 2023 (page 182-183) and the claimant accepted that he received this letter.

#### Alternative employment

62. This was a widespread redundancy exercise which ultimately affected 76 people. The work functions were going overseas so this meant it was almost inevitable that there were not going to be any suitable vacancies in the UK in the same area of work.
63. The respondent did the following in terms of the search for alternative employment. They pointed the claimant towards the internal vacancy board which he checked regularly. In addition, the HR team regularly ran reports during the consultation period to see if there were any potentially



suitable vacancies and shared these reports with the consultation managers, including Mr Milner and Mr Lelyveld, for their consideration. I find on the evidence of Mr Lelyveld and Ms Reese, that no vacancies suitable for the claimant arose.

64. The claimant made his own approach to the playback team where no vacancies existed.
65. There was a question as to whether the claimant was offered a vacancy in Leeds as this was mentioned in the ET3 (page 30). In evidence the parties were in agreement that the claimant was not offered a vacancy in Leeds and Mr Lelyveld confirmed that that there was no suitable vacancy. He was aware of any vacancies through the reports he received from HR. The respondent has an office in Leeds which deals with broadcast engineering rather than software engineering. It is a different function to the one in which the claimant worked. I find that there was no suitable vacancy for the claimant in Leeds. The claimant had also expressed a preference to remain in London.
66. In support of his request for his contract to be extended until March or June 2024, the claimant said he could have stayed on to cover handover to the teams in Poland and India. The respondent had already factored handover into their timings within the redundancy exercise. The termination date originally proposed was 31 October 2023 and this was ultimately extended to 31 December 2023. Ms Reese's evidence was that this enabled handover to be carried out with the teams overseas. Whatever the claimant's view about this, the respondent was not obliged to create a role for him or extend a role for him. This falls within the respondent's own managerial decisions as to how they wish to conduct their business.
67. I find that the respondent looked for suitable alternative employment for the claimant and none arose.

#### The appeal

68. The claimant exercised his right of appeal by email on 31 October 2023 (page 184). The claimant's appeal was based on his medical circumstances and said he felt that the respondent should have helped him as he considered that the working environment had caused him personal injury. He wanted the respondent's financial help to allow him to recover and find a new job. The claimant sought a delay of his redundancy dismissal until April 2024 (page 185) although June 2024 "*would be more helpful*".
69. The claimant did not say in his appeal letter that he thought the redundancy situation was not genuine.
70. The appeal hearing took place on 8 November 2023 before Mr Simon Davies assisted by Ms Sukhvir Reese with Ms Julia Kepinska as note

taker (notes page 188). The notes were sent to the claimant on 16 November 2023, he made some minor amendments and signed and returned that version (page 203).

71. The claimant continued to put his case concerning his health situation and wanted extra pay to help him out until April or June 2024. The claimant said he had looked at other vacancies within the respondent, the playback team did not have a vacancy and the other options were based in India.
72. The claimant said he was looking for work, but most vacancies wanted a hybrid role with 2 or 3 days a week in the office which he said he was avoiding. He wanted a fully remote role.
73. Ms Reese gave evidence regarding the appeal hearing as Mr Davies has left the respondent's employment. At the meeting Mr Davies asked the claimant what he proposed to do beyond the date of redundancy on 31 December 2023 if he was retained to the date he wanted. In reply the claimant said he knew that everyone had left or was leaving and what he was seeking was financial support if he did not find a job (page 206). He said *"so as I said now, everyone has left or is leaving in the team. It would be a matter of finance support if I do not find a job"*.
74. The claimant suggested in evidence that he proposed that he could work beyond 31 December, but this is not recorded in the notes of the meeting and I find on a balance of probabilities that he did not suggest this. What he was interested in was financial support. He accepts that one of his suggestions was that he be placed on garden leave which would have achieved his objective of receiving financial support.
75. Following the appeal hearing, Mr Davies carried out some investigation in relation to the claimant's sickness absences.
76. The appeal outcome was sent to the claimant on 23 November 2023 (page 220). Mr Davies set out in the letter all the documentary evidence that he considered within the appeal and this included the hospital discharge document which the claimant accepts was the only medical evidence that he put forward.
77. In the outcome letter Mr Davies noted that the claimant's wish was for financial support to give him more time for his recovery and allow him to find a suitable job. Mr Davies pointed out that the proposed termination date was changed from 30 November 2023 to 31 December 2023 and that they paid double the amount of statutory redundancy pay. The respondent had also increased his notice period and paid in lieu so the claimant was not required to work his notice. Mr Davies had considered medical information supplied by the claimant and could find no link between the claimant's medical condition and the work environment. The appeal was not upheld.

78. The claimant secured new employment in July 2024.

The process

79. I find that there was adequate consultation with the claimant. There were four consultation meetings: on 15 and 25 September and 17 and 30 October 2023. In addition, there was a team briefing on 12 September 2023 and two Teams meetings with Ms Bowden, on 20 September and 2 October 2023.

80. The claimant had an opportunity in those meetings to raise questions and put forward any proposals, which he did.

81. I find that the meetings were comprehensive and that there was adequate consultation with the claimant. The claimant was given detailed information about the reasons for the proposals and given plenty of opportunity to discuss those proposals in the various meetings.

82. In terms of selection for redundancy, I find on the claimant's own evidence that everyone in his team was made redundant so there was no selection. It was a redundancy exercise which applied to his entire team.

The redundancy payment

83. The dismissal letter also confirmed that the claimant was paid a redundancy payment of £4,822.50 based on his age at date of dismissal, his length of service of 5 complete years and the amount of a week's pay capped at £643.

84. The claimant's final payslip was at page 300. It showed the statutory redundancy payment of £4,882.50 plus the same amount again in enhanced redundancy pay. The claimant had no contractual entitlement to this (Redundancy policy page 270). The claimant confirmed that he received these payments. The total amount paid to the claimant on dismissal, inclusive of holiday pay on termination, was just over £29,000 equivalent to about 5.5 months net pay. The claimant thought that in the light of the holiday pay, it was about 3.5 months net pay. His net pay was approximately £5,200 per month.

85. The claimant had been asking for financial support to cover him until the end of March or more helpfully until June 2024. The respondent put to the claimant that this is in effect what he received. The claimant did not accept this and took the view he suffered financial loss. In effect his termination pay was equivalent to approximately 5.5 months net pay.

86. The claimant's position was that his termination pay was not enough and in his view other tech companies paid more. Whatever his view on this, I find that the respondent paid what it was required to pay under the

statutory regime and the contract of employment. It went over and above its obligations by extending the termination date to 31 December, doubling the notice pay and doubling the statutory redundancy pay.

### The relevant law

87. A redundancy situation is defined in section 139 ERA as follows:

*“...an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is wholly or mainly attributable to .....(b) the fact that the requirements of that business .....(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.”*

88. Section 98(2)(c) provides that redundancy is a potentially fair reason for dismissal.

89. Section 98(4) of the Employment Rights Act 1996 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.

90. The leading case of ***Williams v Compair Maxam Ltd 1982 IRLR 83*** establishes the principles for a fair redundancy dismissal

- a. Whether selection criteria for redundancy were objectively chosen and fairly applied.
- b. Whether the claimant was warned and consulted about the impending redundancy – it was not in dispute that no union is or was recognised by the respondent.
- c. Whether instead of dismissing the claimant, the respondent offered any suitable alternative employment.

91. In terms of the pool for selection, this is primarily a matter for the employer to determine. It is difficult for an employee to challenge this if the tribunal considers that the employer has genuinely applied its mind to the question – see ***Samels v University of Creative Arts 2012 EWCA Civ 1152***. This was a case in which the employee was placed in a pool of one and argued, unsuccessfully, that the pool should have been wider. The Court of Appeal (Arden LJ) said that the question of whether there were persons carrying out similar tasks was a question of fact.

92. Under section 135 Employment Rights Act 1996 a redundant employee is entitled to a redundancy payment.

## Conclusions

93. I have found above that there was a genuine redundancy situation. The requirements of the respondent's business to carry out the software engineering work that the claimant did, was no longer going to be carried out in London. It was moving and did move overseas.
94. The claimant did not at the time challenge the genuineness of the redundancy situation. What he wanted was more time on the payroll to assist him with his recovery and the search for new employment.
95. I have found that the respondent carried out adequate consultation with the claimant in four individual consultation meetings, plus two separate Teams meetings with Ms Bowden.
96. A total of about 76 people were made redundant in this exercise including the claimant's entire team. There was no issue of selection or unfair selection for redundancy. The entire function moved overseas.
97. I have found above that the respondent complied with its duty to seek suitable alternative employment for the claimant and that there was nothing available. The claimant did not assert that there was any available vacancy that should have been offered to him.
98. I find that the respondent acted reasonably in treating redundancy as a sufficient reason for the dismissal of the claimant and that they acted fairly and reasonably in the process that they followed. I find this was a textbook redundancy process, which was considerate and helpful. The claimant was continually pointed towards sources of support, including the Employee Assistance Programme and the Talent Acquisition team who could provide help with job applications, whether internal or external. The respondent extended the claimant's termination date by a month, doubled his notice period and doubled his statutory redundancy pay. Had they been aware of the claimant's health issues at the time they arose, they would have done more to support him.
99. There is no obligation on an employer in a redundancy situation to create a role or wait until an employee recovers his health or finds another job before making him redundant.
100. In relation to the claim for a redundancy payment, the claimant accepted that he was paid his statutory redundancy payment and enhanced redundancy pay doubling the amount of his entitlement. The claim for a redundancy payment fails because the claimant was paid his statutory redundancy pay.
101. For these reasons the claims fail and are dismissed.

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**Employment Judge Elliott  
Date: 14 October 2024**

Sent to the parties and entered in the Register on: 23 October 2024

\_\_\_\_\_ for the Tribunal