



EMPLOYMENT TRIBUNALS

Claimant: Ms J Reynolds

Respondent: Carvansons Ltd

Heard at: Manchester Employment Tribunal

On: 5 November 2024

Before: Employment Judge Dunlop

Representation

Claimant: In person

Respondent: Ms M Hopley (Finance Director)

JUDGMENT having been sent to the parties on 8 November 2024 and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

REASONS

Introduction

1. This was a small claim for payment of notice pay. The claimant had originally claimed £700, but at the outset of the hearing the parties agreed that the amount actually in dispute was £484.50 (gross).

Findings of Fact

2. The respondent is a chemical/fragrance manufacturer. The claimant was employed as an HR manager from June 2023. In her claim form, she makes various allegations about the respondent's poor practice in the HR context. As I made clear at the start of the hearing, those are not matters which fall to be determined as part of this claim.
3. The claimant worked four days a week, on fixed days, from Monday to Thursday. Her desk was in a room on the ground floor of the office building, she shared that space with a colleague.
4. During the latter part of her employment the claimant reported to Ms Hopley, the recently-appointed Finance Director. Ms Hopley's office was in the same building, one floor up from the claimant's.

5. As a manufacturing business, the respondent had no general culture of working from home, and office staff would work from home only from time to time, on an *as hob* basis. I find that the claimant worked from home occasionally, but this would amount to no more than one day a month on average. This would include days where there was a specific need for the claimant to be at home (e.g. to deal with tradesmen) and days where she wanted to work undisturbed on a particular project. Working from home was always agreed in advance with her line manager (either Ms Hopley or her predecessor).
6. The claimant became unhappy in her work relatively quickly, and was particularly unhappy about a particular project she had been tasked with working on, involving proposed redundancies.
7. In January 2024, the claimant emailed work she had prepared in relation to this to her line manager, Ms Hopley, who was not satisfied with it. Ms Hopley sent a meeting request to the claimant, asking her to come to Ms Hopley's office to discuss the issue at 9am on 24 January. This was most likely sent the previous evening.
8. The claimant saw the meeting request around 8.30am, presumably when she logged in to her work email. She was unhappy about it, believing (correctly) that Ms Hopley wanted to take her to task about her work on the redundancy project. The claimant declined the meeting and shortly afterwards sent an email resigning her employment. In the email, she referred to giving one week's notice (which the parties agree would be the relevant notice period).
9. The claimant then packed up her things, including her work laptop, and drove home. I accept her evidence that she did not have personal belongings which were generally left in the office. The things that she packed up were the things that she had with her that day.
10. I do not accept the claimant's evidence that she left a note for the colleague she shared the office with, saying that she had resigned on notice and was going home to calm down. That assertion only came out during oral evidence. I find it highly unlikely that any note would be specific about the claimant's notice period and, even more unlikely that it would not have come to light, nor have been mentioned by either party, until now.
11. I find, therefore, that the claimant went home without attempting to make any arrangements as to how she was going to work during her notice period. (I don't criticise her for not making arrangements at that point, and I accept that she was very emotional, I am simply recording the fact that she not.)
12. When Ms Hopley received the claimant's email, and discovered she had left the office, she was concerned about the information the claimant had access too, particularly regarding the redundancy plan, which was highly confidential. Ms Hopley arranged for the claimant's access to the respondent's IT systems to be disabled. I also find that, because of the claimant's actions in declining the meeting and then leaving without attempting to speak to her, Ms Hopley believed that the claimant had left

work with no intention to work her notice, despite the reference to notice in the email. This was a reasonable interpretation of the claimant's actions at that point.

13. When the claimant got home, she received an email, to her personal email address, from Ms Hopley, notifying her that the business considered that, by leaving the premises, she had resigned with immediate effect. Ms Hopley asked for the company laptop to be returned.
14. The claimant did not reply to Ms Hopley's email. She did not seek to correct the assertion that her conduct showed she was not intending to work her notice period. She did nothing to inform Ms Hopley, or the respondent more generally, that she was still intending to work her notice period. The claimant told me that she intended to work from home but was prevented from doing so by the respondent having disabled her IT access, but she did not point this out or ask for it to be re-connected. Instead, arranged for the return of the laptop as requested.
15. The following day, the claimant would have been due to work. She did not attend work. The next day was a Friday, when she would not have been due to work. Over the weekend, the claimant received her wage slip and noted that she had not been paid in full as she expected. In fact, the respondent had paid her a full day for the Wednesday when she resigned, but not thereafter. (The parties therefore agree there are three days' pay in dispute, the Thursday, and the following Monday and Tuesday).
16. The claimant emailed Ms Hopley to query her pay. There were further emails about the issue, but none in which the claimant stated she was willing to work, or expecting to.

Discussion and conclusion

17. As with employment generally, an employee is only entitled to be paid during their notice period if they are ready, willing and able to work, save in certain specific circumstances such as sickness absence. In earlier times, in most cases, an employee would turn up to the workplace during their notice period, unless they were placed on garden leave by their employer. If they weren't prepared to turn up, then they couldn't expect to be paid.
18. That situation has been complicated by the ability of many office-based employees to work from home. It can be harder to tell if an employee is "ready, willing and able" to work, when they don't necessarily have to come into work to show that.
19. As I have set out above, the claimant initially indicated that she was resigning on notice. However, given her actions in immediately leaving the office and making no arrangements for working her office, I consider that Ms Hopley was justified in her initial conclusion that the claimant in fact intended to resign with immediate effect.
20. The critical moment in the chronology was when Ms Hopley made the position clear to the claimant. Ms Hopley's interpretation of the claimant's actions was a reasonable one, but it was not the only one. In circumstances

where she had, as a matter of fact, walked out, the onus was firmly on the claimant to explain that Ms Hopley had misinterpreted her actions and that she remained available to work for the remaining days of her notice period.

21. The claimant failed to do that. Instead, she took steps to return her laptop, as requested, and then later emailed about her pay, without making any reference to expecting to work during the notice period, or being available for work.
22. In the circumstances of this case I am satisfied that Ms Reynolds was not “ready, willing and able” to work during her notice period. Whatever had been her intention when she originally sent her resignation email her actions thereafter were consistent with a resignation with immediate effect and inconsistent with a resignation on notice. I therefore conclude that she is not entitled to receive her notice pay, and her claim is dismissed.

Employment Judge Dunlop

Date: 21 November 2024

WRITTEN REASONS SENT TO THE PARTIES ON
29 November 2024

FOR EMPLOYMENT TRIBUNALS

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