



EMPLOYMENT TRIBUNALS

Claimant: Mr J Griggs

Respondent: Dever Springs Ltd

Heard at: Southampton (by CVP)

On: 22/23 April 2025

Before: Employment Judge Richardson

REPRESENTATION:

Claimant: In person

Respondent: Mr Adjei (Counsel)

JUDGMENT

The judgment of the Tribunal is as follows:

1. The claim for unfair dismissal is not well founded and is dismissed.

**Approved by
Employment Judge Richardson
23 April 2025**

Judgment sent to the parties on
06 May 2025 By Mr J McCormick

For the Tribunal

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REASONS

1. For clarity I should state that this judgment does not seek to address every point about which the parties have disagreed. It only deals with the points which are relevant to the issues which the Tribunal must consider in order to decide if a claim succeeds or fails. In particular, if I have not mentioned a particular point or piece of evidence, it does not mean that I have overlooked it, it is simply because it is not relevant to the issues.
2. Throughout this judgement I shall refer to Mr Griggs as the Claimant and Dever Springs Ltd as the Respondent.
3. By a claim form submitted on 3 July 2024 the Claimant complains of unfair dismissal with an effective date of termination of 7 May 2024. The original claim form referred to the Respondent as Uniserve Group Ltd. However, on the application of the Respondent the identity of the Respondent was amended by consent to Dever Springs Ltd. The ACAS certificate is dated 26 June 2024 so the matters complained about are within time.
4. The Claimant was employed by the Respondent from 1 December 2017 to 7 May 2024 holding the position of a Fisheries Assistant and later Fisheries Assistant Manager at the time of his dismissal.
5. The Respondent is a trout fishery in Hampshire wholly-owned by Mr Iain Liddell. The fishery comprises a lake, river and growing ponds and was open for a fee to the public for fishing, tuition and corporate events.
6. Mr Liddell is also the Group Managing Director, founder and owner of the Uniserve group of companies, which includes Uniserve Holdings Limited and its subsidiaries (the "Group"). Uniserve Holdings Limited is owned by GB Europe Holdings Limited, which is in turn owned by Mr Liddell. The HR function for the Respondent was provided by the Group.
7. For reference at this hearing the Tribunal was presented with a 147 page bundle plus an index.
8. The Claimant submitted a witness statement on his own behalf.
9. The Respondent submitted two witness statements:
 - a. Iain Liddle, director and sole shareholder of the Respondent;

- b. Paul Stone, currently employed as Manager of Group Committees at Uniserve Holdings Ltd;

10. These statements were provided in advance of the hearing and I took time to read them. Each witness was then questioned about the evidence contained in their statements.

The Issues

11. Had the Claimant been dismissed? There was no dispute that this was case between the parties.

12. What was the reason for dismissal?

- a. The Respondent asserts that it was a reason related to redundancy, which is a potentially fair reason for dismissal under s. 98 (2) of the Employment Rights Act 1996.
- b. It is the Claimant's case that he was selected for redundancy because he had raised a grievance against Mr Cockwill or, in the alternative;
- c. That his position had not been made redundant at all and that he had simply been replaced and so the dismissal was not a potentially fair one under s.98 of the Employment Rights Act 1996.
- d. In his statement of case the Claimant had originally asserted that this was a case of constructive dismissal. However, following discussion between the parties and the tribunal the Claimant withdrew these allegations acknowledging that they were unsustainable as he had not resigned from his position.

13. Did the Respondent act reasonably in all the circumstances in treating redundancy as a sufficient reason to dismiss the Claimant.

- a. In relation to this issue the Claimant asserts that the Respondent acted unreasonably in selecting him for redundancy when alternative employment at the fishery after it had closed would have been possible.
- b. The Respondent disputes the Claimant's suitability for the position that was created after the closure of the fishery.

14. Was the decision to dismiss a fair sanction, that is, was it within the range of reasonable responses open to a reasonable employer when faced with these facts?

15. Did the Respondent adopt a fair procedure? The Claimant conceded at the beginning of the hearing that the procedure adopted by the Respondent in relation to his redundancy had been fair.

The Facts

16. The Claimant was employed as a Fisheries Assistant and later as Fisheries Assistant Manager by the Respondent from 1 December 2017 until 7 May 2024. His duties comprised a range of activities including: undertaking the daily running of the fishery, supporting the compliance with all legislation for the fishery, support for the running of the office including greeting customers and offering them advice and assistance and support, corporate days, general handyman and maintenance tasks, undertaking fish husbandry and support on social media activities and development. The Claimant holds a level 2 diploma in fish management.
17. As well as the Claimant the Respondent employed a fisheries manager, Mr Barrett and an administrative assistant, Amanda Darlison. Also present at the site were Peter and Sue Cockwill. Mr Cockwill was self-employed and provided two days per week as a professional instructor/fisherman offering help and assistance to visiting fishermen. Mrs Cockwill undertook some accounts work for the Respondent.
18. On 27 November 2023 the Claimant raised a grievance against Mr Cockwill claiming that he was subjecting him to physical and mental harassment. Uniserve Holdings HR Business Partner, Angella Hennings, conducted a grievance investigation on 6 December 2023 speaking both to Mr and Mrs Cockwill and the Claimant.
19. The outcome of the investigation was communicated to the Claimant under cover of a letter dated 18 January 2024 from Miss Hennings which concluded:

“The investigation revealed a complex set of circumstances with differing perspectives on the events in question. The motivations behind certain actions remain unclear, and there are contested facts that require further clarification.”
20. Under recommendations and points of action Miss Hennings set out the following:
 1. “Mediation between you and Peter to address communication issues. Both parties have agreed to this, and the meeting will be held on 31 January 2024.
 2. Code of conduct training for all staff to emphasise workplace boundaries.
 3. Regular check-ins with staff to monitor workplace dynamics.
 4. Review and reinforce social media policies to prevent incitement of hate.”
21. On 3 February 2024 Mr Liddell conducted separate meetings with the Claimant, Mr Barrett and Mr Cockwill. He summarised the issues discussed in those meetings an email dated 5 February 2024 addressed to Miss Hennings and Mr Paul Stone (then Uniserve Group HR director) which included the following points:
 3. “In my opinion this is a personal matter between SB and PC that is affecting the business, it makes no sense to cause so much disruption when the

business is such an ideal place to work and I have been enjoying and supporting it.

4. We have always lost money and I have relied on Stuart, but due to this situation I have taken control and I am not reviewing my support of the business in its current format.

5. My options are to improve what we have or radically change what we do, the radical change would be to close to the public become a private members club, with me deciding on members.

6. Radical option would see downsizing of the business, we would not need all the staff and the costs and losses would be reduced.”

22. On 23 February 2024 Mr Barrett informed the Respondent that he was taking sick leave due to stress. On the same day Miss Hennings spoke to the Claimant regarding providing cover for Mr Barrett’s sick leave. The Claimant’s initial response was that it would consider his availability. However, later the same day the Claimant also advise the Respondent that he was taking sick leave again because of stress.

23. In the absence of both the fishery manager and the fishery assistant manager Mr Liddell took the decision to close the fishery on 23 February 2024.

24. The Respondent’s financial statement for financial years 21/22, 22/23 and 23/24 show a series of progressive losses starting at £16,926 for 21/22, £90,085 for 22/23 and increasing to £121,576 for 23/24. In his statement and witness testimony Mr Liddell explained that the financial position of the Respondent in combination with the need to actually close the fishery for an unexpected period of time led him to reach the conclusion that the business would have to be changed from a public facing one to a much smaller private operation with lower operating costs. Accordingly, the decision was made to make all of the staff at Dever Springs redundant. This did not include Mr Cockwill as he was not an employee and someone was needed to continue to look after the fish after the fishery had closed down.

25. On 11 March 2024 notice was posted on social media and on the Dever Springs website advising that the fishery was going to be closed until further notice.

26. On 12 March 2024 the Claimant, Mr Barrett and Miss Darlison were notified that they were at risk of redundancy.

27. On 14 March 2024 Miss Hennings sent the Claimant a letter reinforcing the notice sent out on 12 March and inviting him to attend the first of two consultation meetings which was scheduled to take place on 20 March 2024. The Respondent was represented by Mr Stone and Miss Hennings.

28. The notes of the consultation meeting record the following exchanges between Mr Stone and the Claimant:

PS: Do you have any queries, questions or concerns about the reasons for the changes as outlined within the announcement that was originally made?

JG: Not particularly, I know this is something Iain has been thinking about for a while. When I heard the news, I was kind of expecting something like that.

PS: Do you have any queries, questions or concerns about the reasons for putting your current role at risk?

JG: I guess if the fishery closes there would not be much work there, so I completely understand.

PS: Do you have any suggestions as to how the proposed changes could be altered to mitigate or avoid your potential redundancy situation?

JG: Not particularly, obviously we'd discussed with various people in previous meetings the way forward and how Dever should be run, but I do not think any of that has been taken on board, but we have tried ways to improve Dever.

PS: We are talking about you Jamie rather than anybody else because this is your consultation and your role being at risk. Can you think of anything that could mitigate or avoid your potential redundancy situation?

JG: No not particularly.

PS: If we go ahead with the proposed changes to make your role redundant, it would be useful to understand if you would be interested in considering a potential redeployment opportunities within the Group.

JG: No I would not. I went to college because I wanted to do something in the fishery industry, and I want to stay in the industry."

29. On 22 March 2024 Miss Hennings wrote to the Claimant inviting him to attend a second consultation meeting on 26 March. During the course of this consultation meeting the same questions as referred to above were put to the Claimant to which he responded "No" in every case.
30. At no stage during the consultation process did the Claimant suggest that he was suitable for or request to be considered for a position at Dever Springs post closure to the public.
31. During cross-examination the Claimant conceded that he had been made redundant and that the grievance procedure he had initiated relating to the conduct of Mr Cockwill was not the reason for his selection for redundancy.
32. The Claimant's redundancy was confirmed orally on 22 March 2024 and this was followed up on 2 April 2024 by an email attaching a redundancy confirmation letter along with copies of the redundancy consultation meeting notes, a redundancy payment schedule and a return to work form. The redundancy confirmation letter also contains information regarding the Claimant's right to appeal which he did not

exercise.

33. Mr Barrett and Miss Darlison were also made redundant.

34. On 26 April 2024 Mr Liddell contacted Mr J Holt at the Centre for Environment, Fisheries and Aquaculture (CEFAS) for guidance regarding the ongoing care and maintenance of the fishery. It was at Mr Holt's suggestion that Mr Liddell contacted Mr George Hide at Sparsholt College as someone who may be able to assist with the ongoing needs of the fishery.

35. Initial attempts to contact Mr Hide on 26 April were unsuccessful due to an error in his email address. However, the email was re-sent on 16 May 2024 which explained that Mr Liddell intended to keep Dever Springs "...as a private members club and will need to employ the right staff to look after the grounds and run the site for small groups of corporate type customers".

36. Mr Hide responded on 17 May 2024 requesting a job description and information as to whether or not housing would be included with the job. Mr Liddell replied by email the same day stating:

"Ideally I would like someone full time and whilst we have job descriptions and full operating manuals for the old Dever operation, I haven't done one for the new Dever, but in principal the position we want looking to fill will be to look after a private fishery across all aspects of fish, grounds, property and hosting VIP fishermen. I will try and get something put together next week and will send to you asap."

37. Mr Hide responded the same day offering to send out the job information to the last 10 years or so of graduates from Sparsholt aquaculture and fisheries degree course.

38. Mr Liddell sent a further email on 22 May attaching the standard operating procedures as well as the job descriptions for both the fisheries manager and assistant fisheries manager (the Claimant's old position) referencing "... how we have been running things". Mr Liddell also expanded on how he planned to run the fishery in the future stating:

"The new Dever Springs will be more like a private members club, which will only cater for people that I approve and will mainly come from my network of family, friend and business associates, the dates would be pre booked and held more in a corporate booking style.

We will also be reducing the amount of fish we grow on site substantially, bringing this down from 8000 to less than 1000 and where we were only catch and kill will be offering catch and release, albeit with smaller fish. It is the intention to bring in large fish as required rather than grow them on.

It is early days for the new Dever Springs but I wish to create a place that fishermen will appreciate, respect and enjoy, the same as me. I need people to work for me who have a passion for developing a great location, a great experience, a great

career and are trustworthy and loyal.”

39. In his statement and during cross examination Mr Liddell made it clear that he envisaged that the new role at the fishery would have a strong emphasis on corporate hospitality.
40. On 15 June 2024 Mr Liddell had a meeting with a Mr Aaron Holt at the fishery. In his statement Mr Liddell says that he was very impressed by Mr Holt’s range of skills which he said extended beyond fishery work. In particular he noted Mr Holt’s excellent interpersonal skills which would be of great value for the corporate hospitality side of the business.
41. On 17 June 2024 Mr Liddell offered Mr Holt position of Corporate Hospitality Fisheries Manager which accepted.
42. Since its closure on 23 February 2024 Dever Springs has remained closed and has been excused exclusively by Mr Liddell and his family and friends.

The Law

43. Section 94 of the Employment Rights Act 1996 (ERA) gives employees the right not to be unfairly dismissed. Enforcement of this right is by way of complaint to an Employment Tribunal under s111 of the ERA.
44. In such cases a Claimant must show that he or he was dismissed by a Respondent under Section 95 of the ERA. In this case the Respondent admits that it dismissed the Claimant on 7 May 2024.
45. Section 98 of the ERA provides that:
 - (1) In determining for the purposes of this Part whether the dismissal of an employee is fair or unfair, it is for the employer to show—
 - (a) the reason (or, if more than one, the principal reason) for the dismissal, and
 - (b) that it is ... a reason falling within subsection (2) ...
 - (2) A reason falls within this subsection if it ...
 - (c) is that the employee was redundant,
 - (4) Where the employer has fulfilled the requirements of subsection (1), 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 ... 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.

46. Section 139(1) of the ERA 1996 provides that:

For the purposes of this Act 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 –

(i) for employees to carry out work of a particular kind, or

(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.

47. In Gilham and ors v Kent County Council (No.2) 1985 ICR 233, CA the Court of Appeal made it clear that the burden of proof on an employer to prove the reason for dismissal was not a heavy one. As Griffiths LJ stated: 'The hurdle over which the employer has to jump at this stage of an inquiry into an unfair dismissal complaint is designed to deter employers from dismissing employees for some trivial or unworthy reason. If he does so, the dismissal is deemed unfair without the need to look further into its merits. But if on the face of it the reason could justify the dismissal, then it passes as a substantial reason, and the inquiry moves on to [S.98(4)], and the question of reasonableness.'

48. In the case of Iceland Frozen Foods v Jones [1982] IRLR 439 the Employment Appeal Tribunal provided guidance on the approach to be taken by Tribunals in applying section 98(4) of the ERA 1996. In summary:

- a. in applying this section a Tribunal must consider the reasonableness of the employer's conduct, not simply whether they (the members of the Tribunal) consider the dismissal to be fair;
- b. in judging the reasonableness of the employer's conduct a Tribunal must not substitute its decision as to what was the right course to adopt for that of the employer;
- c. in many (though not all) cases there is a band of reasonable responses to the employee's conduct within which one employer might reasonably take one view, another quite reasonably take another;
- d. the function of the Industrial Tribunal, as an industrial jury, is to determine whether in the particular circumstances of each case the decision to dismiss the employee fell within the band of reasonable responses which a reasonable employer might have adopted. If the dismissal falls within the band the dismissal is fair: if the dismissal falls outside the band it is unfair.

49. In *Williams v Compair Maxam Limited [1982] IRLR 83* the Employment Appeal Tribunal stressed that the tribunal to ask whether “.. the dismissal lay within the range of conduct which a reasonable employer could have adopted”. The EAT provided general guidance on how an employer acting reasonably will conduct a redundancy exercise. In general terms, employers acting reasonably will give as much warning as possible of impending redundancies to employees, consult them about the decision, the process and alternatives to redundancy, and take reasonable steps to find alternatives such as redeployment to a different job.

Conclusion

50. The first issue for determination is the reason for dismissal. The Respondent bears the burden of proof in establishing the reason for dismissal. However, as per the decision of the Court of Appeal in *Gilham* that burden is not heavy one. Nevertheless, Respondent does need to show that a genuine redundancy situation existed as per the definition in s.139 of the ERA i.e. that the requirements of the Respondent’s business for employees to carry out work of a particular kind in Dever Springs had ceased or diminished or was expected to cease or diminish.
51. By the beginning of 2024 the Respondent was nearing the end of three years of gradually increasing financial losses culminating in the financial year 2023/24 in a loss exceeding £120,000. As was made clear by Mr Liddell during the course of meetings with the Claimant and Mr Barrett in early February 2024, he was considering restructuring the business to mitigate the financial losses that were accruing by closing it to the public and making it a private members club which would also entail reducing the number of staff.
52. The situation appears to have come to a head on 23 February 2024 when both Mr Barrett and the Claimant went on sick leave due to stress leaving Mr Liddell with inadequate staff to operate the fishery and thus no option but to close the fishery to the public. Of course this resulted in a further loss of revenue thereby exacerbating the already difficult financial situation.
53. In response to these circumstances Mr Liddell took the decision that it was going to be necessary to restructure the business as described above which would entail making staff redundant. In his statement and during cross-examination Mr Liddell made it clear that, although the decision was made on 23 February, it was something that had been in his mind for a while given the parlous financial situation of the fishery. This is further evidenced by the note of the meeting that he had with the Claimant in early February.
54. In his statement of case, the Claimant alleged that the grievance procedure that he had initiated against Mr Cockwill was the real reason for his dismissal rather than redundancy. However under cross-examination he retracted that allegation and so I will not consider it further.
55. The Claimant has also alleged that rather than being made redundant he was simply replaced by Mr Holt. I will deal with this allegation later in my judgment when I deal with the issue of whether the Respondent acted reasonably pursuant

to the provisions of s.98 (4) of the ERA.

56. Taking all of the above into consideration I am satisfied that the decision to close the fishery by the Respondent and to make the staff redundant was a genuine response to the very difficult financial circumstances that it was facing. Accordingly, I find that the reason for dismissal was redundancy in compliance with s. 98(2)(c) of the ERA.
57. The next issue that I have to decide is whether the Respondent act reasonably in all the circumstances in treating redundancy as a sufficient reason to dismiss the Claimant. The point of contention in relation to this issue is whether or not the Claimant should have been considered and/or offered the position that was subsequently created at the fishery after he had been dismissed and the fishery had closed.
58. In support of this allegation the Claimant has cited the fact that Mr Hide of Sparsholt College, circulated a copy of both his and the fisheries manager's job descriptions as part of the information relating to the "new opportunity" created by the restructuring at Dever Springs fishery. The Claimant asserted that this evidenced that the new job was identical to the one from which the Claimant had been dismissed. Furthermore in cross-examination the Claimant was adamant that he would have been capable of undertaking the new role.
59. However, the correspondence between Mr Liddell and Mr Hide makes it clear that the inclusion of the old job descriptions in their email exchanges in May 2024 was purely for information and not intended to be a description of the new role which was envisaged by Mr Liddell.
60. Both in his statement and during cross-examination Mr Liddell was very clear that he did not believe that the Claimant had the skill set that he was looking for to carry out the new role that he envisaged at the fishery. Clearly he anticipated an entirely different client profile focusing on corporate hospitality and high-end clients which would entail interpersonal/communication skills and above and beyond what he believed the Claimant was able to offer. Whilst I note that the Claimant refuted the suggestion that he was not capable of performing the role that Mr Holt now holds I am satisfied that Mr Liddell genuinely believed otherwise.
61. In this regard I am conscious that it is not for the tribunal to substitute its view for that of the employer provided the views of the employer are held on reasonable grounds. The Claimant has worked for the Respondent since the end of 2017 and has been known to Mr Liddell for many years. During the course of that time Mr Lindell would have had an opportunity to arrive at an informed opinion of the Claimant's capabilities.
62. Following consideration of the above I find that the position of Corporate Hospitality Fisheries Manager created after the closure of the fishery to the public was not one that the Respondent regarded as equivalent to the Claimant's previous position of assistant fisheries manager.

63. I think that it is also pertinent to note that during the course of the consultation process the Claimant was given opportunities during both consultation meetings to suggest how the proposed changes could be altered to mitigate or avoid his potential redundancy situation. His response was “no not particularly”. Given that the Claimant must have been aware that restructuring of the fishery, as explained to him by Mr Liddell in February 2024, would still have necessitated presence of someone to undertake the duties that were subsequently assumed by Mr Holt, this would have seemed an obvious opportunity for the Claimant to avoid redundancy. During cross-examination the Claimant contended that he was expecting to be asked if he would like the job and, if he had been asked, he would have done it. However, it is clear from the notes of the consultation meetings that he was invited to offer alternatives to redundancy but failed to do so.
64. I must also be guided by the Employment Appeal Tribunal in Williams insofar as when determining the question of reasonableness is not for the tribunal to impose its standards and decide whether an employer should have behaved differently.
65. Taking all of the above into consideration I am satisfied that Respondent did act reasonably in all the circumstances in treating redundancy as a sufficient reason to dismiss the Claimant. The Claimant was given two opportunities to put himself forward for a position after the fishery had closed and failed to do so. Moreover, based on his knowledge of the Claimant and his capabilities accumulated over several years, Mr Liddell had concluded that the new position having regard to the restructuring of the fisheries business required someone with a different skill set to that of the Claimant.
66. Finally I must determine whether the decision to make the Claimant redundant was a fair sanction, that is, was it within the range of reasonable responses open to a reasonable employer when faced with these facts.
67. In this regard I am bound to follow the guidance set out by the Employment Appeal Tribunal in Iceland Frozen Foods Ltd. In particular this tribunal must not substitute its decision as to what the right course to adopt was for that of the Respondent. The Tribunal’s function is to determine whether the decision to make the Claimant redundant fell within the band of reasonable responses which a reasonable employer might have adopted.
68. In circumstances where the fishery was losing significant sums of money and at a rate that was increasing annually, a decision to restructure the business to reduce costs and explore new markets was reasonable. The new business required fewer staff, but with skills which extended beyond the requirements of the positions previously in place, including that of the Claimant. The Respondent believed that none of the staff working at the fishery prior to its closure in February 2024 had the requisite skills to take on the new role in the reconfigured business. In a case such as this I find that the decision to make the Claimant Respondent did fall within the band of reasonable responses which a reasonable employer might have adopted.
69. Taking all of the above into consideration I must conclude that the Claimant’s claim for unfair dismissal is not well founded and is dismissed.