



EMPLOYMENT TRIBUNALS

Claimant: Ms. C Ferlin

Respondent: La Salle Education Ltd

HELD AT: Croydon Employment Tribunal (By CVP) **ON:** 12 June 2024

BEFORE: Employment Judge Buckley

REPRESENTATION:

Claimant: In person

Respondent: Mr Tudor (consultant)

JUDGMENT having been sent to the parties 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:

WRITTEN REASONS

Introduction

1. This is a claim for breach of contract (unpaid notice pay).
2. The claim turns on whether or not the claimant was dismissed in a meeting that took place on 18 October 2024. If she was, the claim will fail and she is not due any notice pay.
3. If she was not dismissed in that meeting, she resigned at a later date. The respondent argues in the alternative that the claimant did not make her self available to work, but I have not had to deal with that argument because I determined that the claimant was dismissed.

Evidence

4. I heard evidence from Ms Ferlin and from Nick Cartwright. There was a very stark difference between the evidence of Ms Ferlin and the evidence of Mr Cartwright as

to what happened in the meeting of 18 October 2024. Both witnesses came across as honest witnesses who appeared to be giving evidence to the best of their recollection. However, Mr Cartwright gave evidence that he told Ms Ferlin that her employment was terminated in that meeting and Ms Ferlin gave evidence that he did not say that. They cannot both be correct.

5. I decided to prefer the evidence of Mr Cartwright because it is consistent with the following documentation:
 - a. The messages at page 33 of the bundle. These suggest that, in Mr Cartwright's mind, he was already definite that the claimant was leaving. On the Claimant's case she had not given notice of her resignation by that point. The fact that Mr Cartwright was certain that she was leaving when he wrote those messages supports the respondents case. There is also a reference to Mr Cartwright being cross with Mark for not dismissing people, which is more consistent with a scenario in which Mr Cartwright, in contrast, had taken action by dismissing someone.
 - b. The email from the claimant at page 14. The email does not mention dismissal but it is at least not inconsistent with Mr Cartwright's version. It is consistent with continuing the conversation that he says takes place at the end of the meeting where the claimant offered to improve to avoid dismissal.
 - c. The email from the respondent on 21 October. On first reading this email, I thought it seemed inconsistent with the respondent's version of events. Having heard Mr Cartwright's explanation I am satisfied that that paragraph two of that email was an attempt to mitigate what Mr Cartwright say was a rather extreme reaction to dismissal from the claimant. I accept that he was attempting to persuade the claimant to accept the fact that the employment had been terminated and to see the positive side of this.
6. There is also some support to the respondent's position from the fact that Ms Ferlin did not carry out any work post 18 October. It is possible that this was because she thought they were in the process of negotiating her resignation, but more likely, in my view to be because she knew she had been dismissed.
7. I accept that the fact that Ms Ferlin later put in a letter of resignation does not support the respondent's version of events, but it is possible that she misunderstood what happened in the meeting or thought that a dismissal needed be confirmed by a formal letter. She stated in her evidence that 'if he considered he dismissed me I don't know why I didn't receive a formal letter specifying this because I was expecting this from him'.
8. For those reasons, on the balance of probabilities, I accepted Mr Cartwright's version of events and my findings of fact are made on that basis.

Findings of fact

9. On 18 October 2024 a meeting took place between Mr Cartwright and Ms Ferlin. In that meeting Mr Cartwright expressly told Ms Ferlin that the purpose of the meeting was to terminate her employment. Ms Ferlin reacted initially with silence and then there was a period in which she attempted to negotiate with Mr Cartwright to make him change his mind. Mr Cartwright did not change his mind and told Ms Ferlin that he had made the decision.
10. Following the meeting on 19 October 2024 Mr Cartwright had an exchange of messages with an employee called Mark as follows:

Nick

OK, on staffing ...

The meeting we had in London did not work as well as I'd have liked. To achieve success, we need to work in a certain way and I didn't manage to make that work.

Many people who would do very well in another environment and can't in this one. I am sympathetic to people who need order, discipline, consistency. But I can't deliver that right now

And not having that means that others I ask a lot from already, take on more and can't see a path to better conditions

And if people stop believing, everything falls apart

So Charlotte and Holly will be leaving.

I feel very bad for Charlotte because she produces good work and whatever I say, it will feel like horrible judgement

Mark

Oh dear - I thought Charlotte was getting a bit frustrated but as you say, massively improved the look of our output!

Nick

Yes. She's unhappy. And I've made her more unhappy which is the opposite of what I'm going for. But reality is reality.

I was so cross with Mark for not firing people

11. Ms Ferlin undertook no work following this meeting. I accept that she had no ongoing tasks, but she did not take any action following 18 October to find out what she should be doing. Following this meeting she stopped attending the morning stand up meetings that she normally attended.

12. Ms Ferlin wrote an email to Mr Cartwright on 21 October as follows:

Hello Nick,

I hope this message finds you well. I wanted to summarise our conversation from Friday to ensure we're aligned moving forward.

You expressed concerns about my demonstrated lack of enthusiasm and some communication challenges. We also acknowledged the chaotic work environment that employees are facing, which you indicated may not see immediate changes.

Additionally, you raised concerns about my office attendance, which you mentioned was contrary to my contract's stipulations. I've reviewed the contract and didn't find any specific requirement for daily office attendance, but I'd be happy to clarify if needed.

I'm committed to improving and would appreciate it if you could provide clear guidance on any specific expectations or changes required from my side. I'm also open to discussing any other potential solutions that could help address these concerns, including options for a fair resolution should that become necessary.

Thank you for your time and consideration.

13. Mr Cartwright responded on 21 October as follows:

Hi Charlotte

Thank you for reflecting over the weekend and for your email below. You deserve a reply that properly addresses every point that you have raised and I will send one to you as soon as I am able to do so. The gap between where we are and where I want to be is further evidenced by me not having contacted you today and by me being unable to properly reply now. At some point tonight I need to drive for 2 and a half hours for a meeting tomorrow morning, but I am not close to being able to leave.

It's worth considering how you would feel if offered a job in another company where the work and pay were quite similar, but the company was more mature than ours, with proper management, well documented policies, clear guidance, specific expectations, and predictability. Would you take that job and leave this one? Would you be happier in that job? If the answers to those questions are both yes, then do you think those opportunities exist? If they do, why wouldn't you prefer to pursue them? I am very happy to contact any employer and tell them to interview you so that they can benefit from talent that we regret being unable to nurture.

What I am asking of employees is not reasonable and will not work for most people. I need us to function like a venture-funded Silicon Valley start-up before being able to offer either the salary or the equity that those employees expect. If and when we succeed, then I will be able to reward people properly. We will succeed if I can achieve this. And it is possible because I know how much people can achieve in the right environment. But this is entirely dependent on everyone being well aligned and upon me allocating our scarce resources effectively.

On Friday you shouted at me when I mentioned that you hadn't apologised for a mistake. You lost your temper and were furious that I had drawn attention to your lack of an apology and told me that you deserved an apology. I had just apologised to you several times Charlotte. I apologise on a daily basis numerous times to numerous people. I think it's essential to acknowledge mistakes and their impact on people. People make mistakes all the time. I make loads of them. Things fall apart when people feel unfairly treated and uncared for. This is why I apologise all the time

and mean it. If I acknowledge my failures and demonstrate that I am aware of their impact and am determined to do better, then those affected who are paying attention and believe me will not misinterpret me. They will not feel like victims of cruelty but instead recognise that they are highly valued by someone who respects them and isn't pretending to be something he isn't. So that's what I do. I need to get so much better very very quickly. And I will.

14. I accept Mr Cartwright's explanation for not including any reference to the fact that the claimant had been dismissed. He was concerned about how upset and angry the claimant had been in the meeting, and was trying to gently persuade her to see the positive side of the termination.

15. Ms Ferlin wrote again as follows on 21 October:

Hello,

Thank you for your response.

As an employer, it is your responsibility to ensure a healthy environment and provide the right conditions for employees to be efficient and successful. A dysfunctional organisation will inevitably lead to mistakes and problems. If these issues are not addressed, we can expect consequences such as a programme needing to be reprinted at the last minute or an online MathsConf failing to go live.

Here are the difficulties I faced while working on the programme:

The ownership of tasks for MathsConf wasn't made explicit, which resulted in the programme not being sent on time. If it had been clear that this was my responsibility, I would have acted accordingly.

I began work on the programme on Tuesday for Friday with minimal information. For reference, the task document states the programme should be created two weeks in advance.

Room assignments for each period were provided at the end of Thursday.

I had to gather information from three different sources: Trello, a spreadsheet, and the website.

A couple of hours before the initial deadline, we had to change the workshop order.

At the end of the day, I sent the PDF to Holly, assuming she would manage to send it to the printer. Unfortunately, this misunderstanding resulted in the programme being printed only three days before the event.

Last time, Josh coordinated the print side with me, which made everything run more smoothly. However, with fewer and fewer people in the company, the same amount of work still needs to be done, but by a much smaller team. On top of that, the number of people with experience from organising previous MathsConfs is shrinking, leading to a loss of valuable knowledge and expertise.

The more last-minute changes and disorganisation there are, the more mistakes occur. Despite my best efforts, I inadvertently forgot to move the first page of the document to the end before generating the PDF, which caused the person in charge of printing to produce the pages in the incorrect order. I sincerely apologise for this oversight. However, I believe it results from the broader issues I've previously mentioned: a lack of organisation, frequent last-minute changes, and a smaller team. While I regret the costs associated with the reprinting, I cannot accept full responsibility for the situation.

When printing a large volume, it's standard to request a print proof before proceeding with the full batch. This wasn't done last time, and though it was too late on this occasion, it's something that should be implemented in the future.

Regarding my behaviour on Friday, I raised my voice for two reasons:

I felt you were trying to make me feel guilty for the programme issue. You claimed I wasn't doing what you ask, which I believe is untrue.

I apologise if my tone was offensive. I'll ensure I remain calm in the future. As I mentioned before, I am open to finding a solution that works. However, if you believe no resolution is possible, I suggest resigning with my notice period ending on 30th November and payment in lieu of notice.

Kind regards

16. Ms Ferlin chased Mr Cartwright for a response. Receiving no response she sent the following letter on 29 October 2024:

Dear Nick Cartwright,

Please accept this letter as formal notice of my resignation from my position as Product Designer with Complete Maths. My final working day will be 30 November 2024.

I am grateful for the opportunities for professional development I have experienced during my time here. Over the coming month, I will make every effort to ensure a smooth transition and am available to support the handover of my responsibilities.

Please let me know if there is anything specific I can do to assist in this process.

Yours sincerely,

Charlotte Ferlin

17. Mr Cartwright did not reply to either of the above communications. I accept his explanation for not replying. He was extremely busy at that time due to a former director's illegal behaviour and struggling to keep the company afloat. He had, rightly or wrongly, informed the impression that the claimant was not communicating with him in good faith. I do not accept that his failure to reply was because he had not dismissed the claimant.

18. On 3 December Mr Cartwright wrote the claimant as follows:

Dear Charlotte I hope you're doing well. I apologise for the delay in processing payroll.

I have attached your P45.

Your salary calculation is derived from 1 month notice from our meeting on 18th October, as per your contract. The pro rata calculation for your outstanding available holiday was -1.5 days but we did not apply a deduction.

Please let me know if you have any queries. Please don't hesitate to get in touch if I can help in any way, now or in the future. Thank you for your high quality work for La Salle. I wish you the very best for the next steps in your career. Best wishes, Nick

19. I do not need to make findings of fact in relation to what happened after that letter.

Discussion and conclusions

20. I have explained above why I have accepted Mr Cartwright's version of events. On that basis, I find that the respondent communicated to the claimant clear and unambiguous notice of the termination of her employment on 18 October. She was paid for a month after that date and therefore is due no further notice pay. On that basis the claim is dismissed.

Employment Judge Buckley

Reasons approved for issue on 20 June 2025

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