EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 8000270/2025 (V)

Held on 2 and 3 June 2025

Employment Judge N M Hosie

Mr M Edwards	**Claimant** **In Person**
Aramark Ltd	**Respondent** **Represented by,** **Mr A Hardman,** **Counsel,** **Instructed by,** **Ms L Wright,** **Solicitor**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Tribunal is that the claim is dismissed.

E.T. Z4 (WR)

REASONS

1. Mark Edwards claimed that he was unfairly dismissed by the respondent, Aramark Ltd, on 18 November 2024. The respondent admitted the dismissal but claimed that the reason was redundancy and that it was fair.

The evidence

2. I heard evidence on behalf of the respondent from:

- Iain MacFarlane, Head of Technical Services, who took the decision to dismiss Mr Edwards.
- Steven Duthie, Senior Operations Manager, who heard Mr Edwards' Appeal against his dismissal.
- Lee Bridgehouse, Operations Manager.

3. I also heard evidence from Mr Edwards who spoke to a written statement which is referred to for its terms.

4. A Joint Bundle of documentary productions was also submitted ("P").

5. Having heard the evidence and considered the documentary productions, I was able to make the following findings in fact, relevant to the issues with which I was concerned. By and large, the facts were either agreed or not disputed.

6. The respondent, which trades as "Arcadian", provides offshore catering and facilities management services at several North Sea oil rigs operated by Total Energies ("Total"). Mr Edwards was employed by the respondent as an Offshore Maintenance Technician (Electrical) ("OMTE"). His contract of employment was one of the documentary productions (P.52-61). His

employment terminated on 18 November 2024, allegedly on the ground of redundancy.

7. Mr Edwards was based on Total's Alwyn/Dunbar oil rig. However, there was the following provision in his contract of employment (P.53) :-

"***3. PLACE OF WORK***

3.1 You are employed to work on offshore installations. Your place of work will vary depending on the installation that you are allocated to. You may be required to work on any installation in the United Kingdom Continental Shelf or any other reasonable location as the Company may require. You may also be required to carry out work at the Company's premises on the UK mainland."

8. On or about 11 September 2024, Total issued an instruction to the respondent to reduce the number of Multi-Disciplined Engineering Maintenance Services ("MDEs")/Maintenance Technician Services on its Elgin oil rig ("the Elgin") from two Technicians to one.

Redundancy procedure

9. Although the reduced requirement related to MDE Technicians on the Elgin, the respondent "pooled" all the OMTEs and MDEs on the Total oil rigs. The reason for this was that OMTEs and MDEs essentially performed the same role. Additionally, the respondent was a party to the "Total Field Agreement" which was agreed with the applicable Offshore Trade Unions (P.50-51) and provided that "*When a redundancy situation occurs, the whole field will be placed at risk.*" (P.51)

10. There were 5 OMTE/MDE Technicians, including Mr Edwards, in the pool. Accordingly, the respondent concluded that that number required to be reduced to 4.

11. On 19 September 2024, the respondent notified the 5 Technicians in the pool of the proposed reduction and they were invited to attend a presentation on 23 September 2024 (P.72). All 5 attended the presentation (P.73-90).

12. On 23 September 2024, Iain MacFarlane, Head of Technical Services wrote to all 5 Technicians to invite them to attend individual consultation meetings on 25 September 2024 (P.91).

13. Notes of the meeting which Mr MacFarlane had with Mr Edwards were included in the Bundle (P.92-93).

Scoring

14. Mr MacFarlane then completed a Scoring Matrix for each of the 5 Technicians in the pool (P.94-103). Mr Edwards' score of 21 was the lowest. The reason for this was that, compared with the others in the pool who were awarded 5 points for "Performance History", he was only awarded 3 points because he had a "Performance Improvement Plan" ("a PIP") in the last 12 months, (P.102).

15. Mr MacFarlane wrote to Mr Edwards on 11 October 2024 to advise him of this and to invite him to a "Stage 2 Redundancy Consultation Meeting on 14 October 2024" (P.105-106).

Second redundancy consultation meeting on 14 October 2024

16. Notes of that meeting were included in the Bundle (P.107-108). Mr MacFarlane shared the scoring sheet with Mr Edwards. He also advised him that he would continue to look for alternative positions, as he had been doing, but if none could be found, he would be dismissed, due to redundancy, with effect from 18 November 2024.

17. On 14 October 2024, Mr MacFarlane wrote to Mr Edwards to confirm this (P.109-110). The following are excerpts from his letter:-

"*Further to your 2nd Redundancy Consultation Meeting on 14 October 2024 with me and Una Findlater, HR Business Partner, we write to confirm with regret that your position of Maintenance Technician has become redundant……..*

This redundancy notification has been necessitated as a result of the decision that our client Total have informed us that there is to be a reduction in MDE/Maintenance Technician manning.

Since then, we have considered all alternative positions with you but have been unable to find you a suitable position. As discussed, based on your length of service, your notice period is 5 weeks. This means that your employment will terminate on 18 November 2024 and you will work your notice. We will continue to search for alternative employment throughout your notice period, but if we are unable to do so, you will be made redundant on that date."

Appeal

18. On 22 October 2024, Mr Edwards intimated that he wished to appeal (P.118-119). The following are excerpts from his e-mail:-

"*……*
I am writing to formally appeal the decision regarding my redundancy, particularly in light of the fact that my position appears to have been filled by another individual.

I have dedicated significant time and effort in my role at Arcadian, and I believe my contributions have been valuable to the organisation as a whole. It is concerning to learn that my responsibilities have been assigned to someone else, as this suggests that my skills and experience are still relevant and needed. Furthermore, I would like to highlight the legal implications surrounding the redundancy; it is generally understood that an employee cannot be made redundant if their roles exists. After discussions with the OIM here on the Alwyn, he was surprised as they are not looking for MDEs on the NAA (North Alwyn).

With that in mind can I ask why myself, ….and others who are not involved in the Elgin have been brought into this redundancy selection process as our positions are all still very much tenable.

The redundancy letter states that I waived my right to have somebody present in the meeting with me, I did state that I was unable to get someone in the meeting with me due to being stuck offshore, which I would have preferred.

Additionally, I was informed not to attend a training course due to its cancellation. However, I later discovered the course was not actually cancelled. This miscommunication has not only impacted my professional development but also raises questions about the decision-making process regarding my redundancy. I was informed not to attend the HOIT (Helicopter Operations Initial Training), this was after it had been approved by the OIM and booked, I had already sat and asked the online CBT for dangerous goods by air which is a prerequisite to doing the practical part of the course. I was informed on 5 September not to attend the training course and apparently Total did not inform Arcadian/Aramark until 11 September about the redundancy of the Elgin position. I was marked down as a no-show for this course so clearly was not cancelled, even though I had been told otherwise.

Moreover, I want to express the mental stress this situation has caused me, especially as I am currently offshore working. Being informed of my redundancy while away from home has added an additional layer of anxiety and uncertainty to an already challenging work environment……"

Appeal meeting on 1 November 2024

19. The Appeal was conducted by Steve Duthie, Senior Operations Manager. Notes of the Appeal Hearing were included in the Bundle (P.123-125). The following are excerpts:-

"*Mark stated he was wondering why he was told not to go to the training when the training was on the 5th and Aramark were not told until the 11th that Total were looking to down-man one of the MDEs on the Elgin.*

Mark stated that it seemed to him that the decision had already been made before the consultation had started.

Steve explained that a field agreement was in place to protect everyone in the field and provide a level playing field but everyone is treated as one so it is a Total workforce, it is not separated by rig.

Steve explained that is why everyone is put into the pool; everyone in the MDE category was put into the selection pool.

Steve explained that the training that Mark has mentioned was organised by the client, it was not organised by Aramark.

Steve explained that Mark was not disadvantaged in the process because he did not do the training.

Steve explained that it was the performance improvement plan (PIP) that went against Mark in this case and that is why he is in the situation that he is in as far as the process goes……

Mairi (Mairi Reid, Head of HR) stated that Mark had also mentioned in his appeal about not having someone to represent him at the second consultation meeting.

Mark stated that it was all done when he was offshore.

Mairi explained that we have looked at the meeting recordings and Mark was offered the right to be represented at the meeting."

Appeal outcome

20. On 8 November 2024, Mr Duthie wrote to Mr Edwards to advise him that he had decided not to uphold his Appeal (P.129-130). The following are excerpts from his letter:-

"*I have given careful consideration to the points you have raised. However, taking into account all the circumstances, I am sorry to inform you that the decision to terminate your employment remains unchanged because:-*

1. *Aramark has a Total Field agreement in place, whereby the purpose of the agreement is to allow for the free movement of personnel within the Total business. Should a redundancy situation occur on any individual unit, this has an impact on the full Total field team and everyone within the same role in the Total field will be placed at risk of redundancy. This was the case in this situation with 5 roles being placed at risk to be reduced to 4 roles, with a reduction to 1 role in the whole of the Total field.*

2. *In the second redundancy consultation meeting, you were asked if you wished to be represented at the meeting, and when you advised that you would have liked to have a representative, but you were offshore and found it difficult to arrange, you were offered to reschedule, to which you advised to continue with the meeting. You were also advised that if you wished to adjourn the meeting at any time to let them know and an adjournment would take place.*

3. *The HOIT training course was arranged by the offshore personnel (the client) and not by Arcadian/Aramark, the training course was then cancelled due to the pending outcome from the client of a potential reduction in numbers of the MDE position. On review of the redundancy scoring matrix I can confirm that you were scored as meeting requirements; and you were not scored down for not having this course in place. The HOIT training would also have been seen as additional training and not a training requirement for the job, and therefore would not have been used as part of the training in the scoring matrix. Additional training was not reviewed for any employee as part of the training requirements in the scoring matrix.*

4. *Arcadian/Aramark were advised of the potential decrease in numbers of MDE on 02 September. The business therefore took the review* (sic) *to cancel any additional courses until full confirmation was given on the requirements going forward. The client confirmed with Arcadian/Aramark on 11 September of the reduction of 1 x MDE position.*

As set out in our letter dated 14 October 2024, your last day of employment will be 18 November 2024."

21. On 15 September 2024, Mr MacFarlane wrote to Mr Edwards to confirm his dismissal on the ground of redundancy (P.131-132).

Respondent's submissions

22. Counsel made written submissions which are referred to for their terms. The following is a brief summary. Counsel submitted that, "*the only issue in dispute is whether the respondent acted reasonably in selecting the claimant for redundancy in the circumstances of this case* (P.16); and that "*the only issue between the parties appears to be whether the pool for selection for redundancy should have included the claimant.*"

23. Counsel referred to the following cases in his submissions:-

Williams & Others v. Compair Maxam Ltd [1982] ICR 156;
Kvaerner Oil & Gas Ltd v. Parker & Others EAT/044403 (at para 20).

24. He submitted that:-

"*Cases such as this, where what is in issue is the reasonableness or otherwise of the respondent's decision, are extremely fact-sensitive.*

In my submission the facts disclose that the respondent was required to make one MDE/OMTE redundant from the five who worked in that position in the client (Total)'s North Sea fields.

It followed a method of fixing the pool for selection which was agreed with the relevant Trade Unions. The pool was also objectively reasonable, being well within the range of potential pools which a reasonable employer would decide upon.

Having identified that pool, the respondent then adopted reasonable objective criteria for selection from that pool. These were explained, without objection, at a meeting with those identified as within the pool for selection. Applying those criteria resulted in the claimant being identified for potential redundancy. He was advised of this and discussion took place with him about that potential decision and the possibility of re-engagement elsewhere within the organisation. No alternative role was identified, and the claimant was accordingly dismissed. He appealed against that decision and it was reviewed but confirmed by an independent manager.

In all these circumstances, this dismissal was not unfair and this claim should be dismissed."

Claimant's submissions

25. Mr Edwards made oral submissions. The following is a brief summary. He submitted that the cancellation of his training was evidence that he was *"pre-selected".* Although Mr Bridgehouse gave evidence that the reason for the cancellation would be to *"save money",* Mr Edwards gave evidence that he received a telephone call on 11 September to enquire why he had not attended the training and that he would be recorded as *"no show".* It would appear, therefore, that the training had already been paid for.

26. He also pointed out, with reference to the Total Field Agreement, that there was reference in the Agreement to the "Aramark Redundancy Agreement" (P.62-63).

27. He submitted that he should not have been included in the pool as Total only wanted a reduction in the personnel on the Elgin. He submitted that the respondent had failed to follow the "Aramark Policy".

Discussion and Conclusions

28. I remained mindful throughout and made allowances for the fact that Mr Edwards was a litigant in person and had no experience of employment tribunal proceedings.

29. In every unfair dismissal case where dismissal is admitted s.98(2) of the Employment Rights Act 1996 ("the 1996 Act") requires the employer to show the reason for the dismissal and that it is an admissible reason, in terms of s.98(2), or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held. An admissible reason is a reason for which an employee may be fairly dismissed and among them is that the employee was redundant. That was the reason which the respondent claimed was the reason for Mr Edwards' dismissal. That was the issue which I first considered.

30. Mr Edwards did not appear to dispute that there was a redundancy situation. His main contention was that there was no redundancy "in his case" as he did not work on the Elgin and he should not have been included in the selection pool.

31. The statutory definition of redundancy is to be found in s.139(1) of the 1996 Act. Sub-section (1)(a) deals with the situation where an employer has ceased or intends to cease to carry on business. Clearly that does not apply in the present case. The relevant provisions are in sub-section (1)(b) which reads as follows:-

"*(1) 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 –*

(a) ……..

(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 the employee was employed by the employer have ceased or diminished or are expected to cease or diminish."

32. I had no difficulty arriving at the view that the circumstances of the present case fell fairly and squarely within that definition and that this was a genuine redundancy situation. It was not disputed that Total had instructed the respondent to reduce the Maintenance Technicians on the Elgin from two to one and significantly, so far as Mr Edwards' inclusion in the pool was concerned, the Total Field Agreement required the *"whole field",* which included the Alwyn where Mr Edwards worked, to be *"placed at risk".*

33. I also found support for my decision in this regard in ***Murray & Another v. Foyle Meats Ltd*** [1999] IRLR 562. Giving the leading speech of the House of Lords, Lord Irvine, the Lord Chancellor, thought that the wording of the relevant statute was: "*simplicity itself*". In his Lordship's view, the language of this section asks two questions of fact. The first is whether the requirements of the employer's business for employees to carry out work of a particular kind have diminished. The second question is whether dismissal is wholly or mainly attributable to that state of affairs. This is a question of causation. So far as the present case was concerned, I was satisfied that the requirements of the respondent's business for Technicians, such as Mr Edwards, to carry out work had diminished and that was the reason for the his dismissal.

34. I decided, therefore, that Mr Edwards was dismissed by reason of redundancy which is an admissible reason.

35. Having reached this decision, the remaining question which I had to determine, under s.98(4) of the 1996 Act, was whether the respondent had acted reasonably in treating the reason for dismissing Mr Edwards as a sufficient reason and that question had to be determined in accordance with equity and the substantial merits of the case. In doing so, I had regard to the

authoritative starting point for Tribunals assessing the fairness of a redundancy dismissal, namely the guidance of Lord Bridge in ***Polkey v. AE Dayton Services Ltd*** [1987] IRLR 503: "*The employer will not normally act reasonably unless he warns and consults any employees affected or their representatives, adopts a fair basis on which to select for redundancy and takes such steps as may be reasonable to avoid or minimise redundancy by redeployment within his own organisation.*"

36. I also remained mindful that the objective standards of the reasonable employer must be applied to all aspects of the question of whether an employee was fairly and reasonably dismissed (***Sainsburys Supermarkets Ltd v. Hitt*** [2003] IRLR).

37. In the ***Compair Maxam*** case, to which I was referred by Counsel, the EAT also laid down guidelines which a reasonable employer might be expected to follow in making redundancy dismissals:

"*…….there is a generally accepted view on industrial relations, that in cases where the employees are represented by an independent trade union recognised by the employer, reasonable employers will seek to act in accordance within the following principles:*

(1) The employer will seek to give as much warning as possible of impending redundancies so to enable the union and employees who may be affected to take early steps to inform themselves of the relevant facts, consider possible alternative solutions and, if necessary, find alternative employment in the undertaking or elsewhere.

(2) The employer will consult the union as to the best means by which the desired management result can be achieved fairly and with as little hardship to the employees as possible. In particular, the employer will seek to agree with the union the criteria to be applied in selecting the employees to be made redundant. When a selection has been made, the employer will consider with the union whether the selection has been made in accordance with those criteria.

(3) Whether or not an agreement as to criteria to be adopted has been agreed with the union, the employer will seek to establish criteria for selection which so far as possible do not depend solely on the opinion of the person making the selection but can be objectively checked against such things as attendance record, efficiency of the job, experience, or length of service.

(4) The employer will seek to ensure the selection is made fairly in accordance with those criteria and will consider any representations the union may make as to such selection.

(5) The employer will seek to see whether instead of dismissing an employee he could offer him alternative employment.

These principles should be departed from only where some good reason is shown to justify such departure."

38. In the present case, of course, parties had the benefit of the Total Field Agreement which had been agreed with the recognised trade unions (P.50-51).

Warning and consultation

39. Mr Edwards was warned in good time that his job was at risk and the reason for this was explained clearly to him. There then followed one-to-one consultation meetings when he was advised of the scoring and afforded the opportunity of making representations on his own behalf.

40. There then followed an appeal.

41. Mr MacFarlane who took the decision to dismiss and Mr Duthie who heard the Appeal both gave their evidence in a consistent and convincing manner and presented as credible and reliable. There was no suggestion that they were not favourably disposed towards Mr Edwards. They both regretted having to make Mr Edwards redundant.

42. While Mr Edwards was advised not to attend the training course. This was a course which had been organised by Total. There appeared to be some confusion as to whether the course had actually been cancelled by anyone, as Mr Edwards gave evidence that he was called on 11 September, asked why he was not in attendance and told he would be marked as a "no show". Although it was unclear whether or not the course had been cancelled, if it was, it was perfectly reasonable in the circumstances for this to be done until such time as the redundancy procedure was concluded.

43. In any event, Mr Edwards non-attendance at the training was not a factor in his selection. Having regard to the procedures which the respondent followed which were conducted, in my view, in a manner which any reasonable employer could have adopted and the credibility and reliability of the respondent's witnesses, there was no evidence to suggest that Mr Edwards' selection was prejudged.

The pool

44. Mr Edwards claimed that he should not have been included in the pool, mainly because he worked on the Alwyn and the reduction in the number of Technicians was on the Elgin. However, the Total Field Agreement is in clear, unequivocal, terms (P.50-51). The Agreement states that it will comprise a total of 6 "units" which included the Elgin and the Alwyn (P.51). Mr Edwards' contract of employment also provided that his place of work could vary and that he could be required to work on any of the rigs, as required by the respondent (P.53).

45. The Total Agreement then goes on to say this:-

"*Should a redundancy situation occur on any individual unit, this will have an impact on the Field Team, and they will also be placed at risk.*

When a redundancy situation occurs, the whole field will be placed at risk" (P.51).

46. There is reference in the Total Field Agreement to the Aramark Redundancy Agreement (P.51). However, the Aramark Agreement (P.62-65), which post-dated the Total Agreement, only gives general guidance on the selection criteria which will "usually" be followed (P.63). It did not supersede the Total Field Agreement. In any event, so far as the legal test was concerned, I was satisfied that the pool which the respondent identified and the selection criteria which they applied were within a band of reasonable responses which a reasonable employer could have adopted.

47. As the EAT said in the ***Kvaerner Oil & Gas Ltd*** at para. 20, to which I was referred by Counsel:-

> "*…….. we consider that the starting point is and must always be, whether or not the Tribunal was correct to conclude that the dismissals were unfair by reference to the considerations set out in s.98(4) of the 1996 Act. But in approaching that exercise it is important to underline that the authorities show that different people can quite legitimately have different views about what is or is not a fair response to a particular situation……*
>
> *The question is whether or not the employer's solution did or did not fall within a band of reasonable responses open to it and, if it did, then whatever its own views as to the matter, it will not ordinarily be open to the Tribunal to substitute those views and conclude that the employer acted unfairly.*"

48. I was also mindful of the guidance on "unfair selection" in a number of other cases. In the Court of Appeal case ***British Aerospace Plc v. Green & Others*** [1995] IRLR 433 LJ Waite said this: "*In general the employer who sets up a system of selection which can reasonably be described as fair and applies it without any overt sign of conduct which mars its fairness will have done all that the law requires of him.*"

49. The Court of Session expressed a similar view in ***Buchanan v. Tilcon Ltd*** [1983] IRLR 417: where an employee's only complaint is that he was unfairly selected for redundancy all the employers have to prove is that their method of selection was fair in general terms and that it was applied reasonably in the case of that employee.

Alternative employment

50. I accepted the evidence of Mr MacFarlane, in particular, that he had made enquiries about suitable alternative employment for Mr Edwards and that he continued to do so until the termination date, but there was none. Indeed, Mr Edwards did not take issue with this.

51. Having regard to the guidance in the case law, therefore, I had little difficulty arriving at the view that, although regrettable, Mr Edwards' selection was fair, in general terms, and was applied reasonably. I was satisfied that his selection was within the band of reasonable responses which a reasonable employer might have adopted.

52. I arrived at the view, therefore, with reference to s.98(4) of the 1996 Act, that the respondent had acted reasonably and that Mr Edwards' dismissal was fair. His claim is therefore dismissed.

53. Finally, I wish to record that I was not unsympathetic to the position in which Mr Edwards found himself. I could well understand why he was upset at being selected when the redundancy was because of a reduction in Technicians on the Elgin where he didn't work; he was a good and valued employee who had been promoted over the years; and he only lost out because of a PIP which appeared to be a relatively minor matter, and one which had been resolved satisfactorily some months previously. However, because of the instruction from the client, Total, one of Aramark's 5 Technicians had to be made redundant and it was forced to make a really difficult decision.

Employment Judge: N M Hosie
Date of Judgment: 8 June 2025
Date Sent to Parties: 9 June 2025