



EMPLOYMENT TRIBUNALS

Claimant: Miss Charlotte Poole

Respondent: Av2 Ltd

JUDGMENT

The complaint that the claimant was unfairly dismissed is struck out.

REASONS

1. The claimant complains of unfair dismissal.
2. Section 108 of the Employment Rights Act 1996 requires a claimant to have not less than two years' service to make an unfair dismissal complaint.
3. The claimant was employed by the respondent for less than two years.
4. Therefore the claimant is not entitled to bring such a complaint.
5. The claimant was given an opportunity to give an acceptable reason why the complaint should not be struck out. She has failed to do so.
 - a. In order to satisfy the s.104 Employment Rights Act 1996 exemption from the need for two years' qualifying service, the statutory right asserted must be the cause of her dismissal. The claimant asserts the reason for her resignation, and thus her dismissal, is the non-payment of wages (and associated points). That being so the reason is not the s.104 reason and so the exemption cannot apply.
 - b. Further, the non-payment of wages was ongoing before she asserted the statutory right. It is therefore difficult to see how the assertion of the statutory right caused the non-payment of wages.
6. Accordingly, the complaint of unfair dismissal is struck out. The claimant's other complaints are not affected by this judgment.

Employment Judge Perry
6 August 2025