



EMPLOYMENT TRIBUNALS

Claimant: Mr. T Nixon

Respondent: Burslem Snooker Hall Limited

Heard at: Midlands West Tribunal sitting in Stoke On Trent

Method: By hybrid hearing Claimant in persona and Respondent by CVP

On: 05 November 2025

Before: Employment Judge Smart in public

Appearances:
For the Claimant: Himself and supported by his sister
For the Respondent: Ms S English (litigation consultant)

RESERVED JUDGMENT OF THE EMPLOYMENT TRIBUNAL

1. The Claimant's claim of unfair dismissal is not well founded and is dismissed.

THE HEARING

2. The hearing did not run smoothly all the time. There were frequent delays because the Claimant's representative had Wi-Fi difficulties.
3. The Claimant also became upset at times, which was understandable given the stress of the hearing and the emotive nature of the evidence.
4. Ultimately, we managed to get through the evidence and submissions and judgment was therefore reserved.

THE ISSUES

5. The issues were about a claim of unfair dismissal only and the Claimant expressly relied upon being dismissed. He expressly did not make any argument of constructive dismissal.
6. The detailed issues are annexed to this Judgment as appendix 1 and were discussed before me at a previous preliminary hearing.
7. Essentially, if I found the Claimant to have resigned then his unfair dismissal claim would fail.
8. If I found the Claimant to have been dismissed, it was likely the Claimant's claim would succeed because the Respondent admitted that it had followed no procedure about such a dismissal, which was likely to be procedurally unfair.
9. The only other claim for a redundancy payment had previously been dismissed upon withdrawal by me, because the Claimant expressly accepted that there was no situation that would fit the definition of redundancy before his dismissal.

THE EVIDENCE:

10. I heard evidence from the Claimant himself and also from Mr. Carl Holness the Director and owner of the Respondent.
11. I also had a bundle of documents of 92 pages in length.

THE LAW:

12. Before going into the evidence and what I find happened in this case, I say a bit about the law.
13. When I mention other cases such as **Omar** below, these are cases that have been decided by a higher court than this one and therefore guide me on how I should think about a case and what principles I should apply to the evidence to come to a legally sound decision.
14. These previous cases are known as "authorities".

The treatment of ambiguous or unambiguous words of resignation or dismissal

15. The leading authority about ambiguous resignations/dismissals is the recent case of **Omar v Epping Forest District Citizens Advice [2023] EAT 132**.
16. This case decided the following principles need to be applied to decide if ambiguous words amounted to the termination of employment and, if so, with or without notice at paragraph 97 of that judgment:
 - 1.1. A notice of resignation or dismissal, once given, cannot unilaterally be retracted. The giver of the notice cannot change their mind unless the other party agrees.
 - 1.2. Words of dismissal or resignation, or words that potentially constitute words

of dismissal or resignation, must be construed objectively (reasonably and impartially) in all the circumstances of the case. They must be construed in accordance with normal rules of contractual interpretation.

- 1.3. The subjective uncommunicated intentions of the speaking party are not relevant. The subjective understanding of the recipient is relevant but not determinative.
- 1.4. What must be apparent to the reasonable bystander in the position of the recipient of the words is that:
 - 1.4.1. the speaker used words that constitute words of immediate dismissal or resignation (if the dismissal or resignation is 'summary') or immediate notice of dismissal or resignation (if the dismissal or resignation is 'on notice') – it is not sufficient if the party merely expresses an intention to dismiss or resign in future; and,
 - 1.4.2. the dismissal or resignation was 'seriously meant', or 'really intended' or 'conscious and rational'. The alternative formulations are equally valid.
 - 1.4.3. What they are all getting at is whether the speaker of the words appeared genuinely to intend to resign/dismiss and also to be 'in their right mind' when doing so.
 - 1.4.4. Consequently, the point of view that is most relevant is that of the recipient of the words of termination.
- 1.5. In the vast majority of cases where words are used that objectively constitute words of dismissal or resignation, there will be no doubt that they were 'really intended' and the analysis will stop there. A Tribunal will not be in error if it only considers the objective meaning of the words and does not go on to consider whether they were 'really intended' unless one of the parties has expressly raised a case to that effect to the Tribunal or the circumstances of the case are such that fairness requires the Tribunal to raise the issue of its own motion.
- 1.6. The point in time at which the objective assessment must be carried out is the time at which the words are uttered. The question is whether the words reasonably appear to have been 'really intended' at the time they are said.
- 1.7. However, evidence as to what happened afterwards is admissible insofar as it is relevant and casts light, objectively, on whether the resignation/dismissal was 'really intended' at the time.
- 1.8. The difference between a case where resignation/dismissal was not 'really intended' at the time and one where there has been an impermissible change of mind is likely to be a fine one. It is a question of fact for the Tribunal in each case which side of the line the case falls.

- 1.9. The same rules apply to written words of resignation / dismissal as to spoken words.
17. Likewise, a resignation or dismissal can occur because the behaviour of a person indicated that they were bringing the employment relationship to a close.
18. There may also be a situation where both ambiguous words and ambiguous behaviour are present. Those words and behaviour must be weighed together in all the circumstances at the time of the alleged resignation/dismissal.
19. After **Omar** above, in my judgment, the same principles for ambiguous words of termination of employment apply if there is ambiguous behaviour taken as being a termination of employment.

FINDINGS OF FACT:

20. The Claimant commenced his employment with the Hall on 10 June 2010 as the Manager of the hall.
21. Originally, the Claimant was managed by two other directors.
22. In August 2022, the ownership of the hall changed and Mr. Holness took it over.
23. There was no change to the employment, or the business entity, which was common ground between the parties.
24. The Claimant's employment continued unaffected.
25. The Claimant was provided with a contract of employment. He admitted that the version of the contract in the bundle before me at pages 42 – 45 in the bundle was the correct contract despite being unsigned.
26. At the start of the working relationship between Mr Holness and the Claimant, the relationship was a positive one. I say this because, for example, it was common ground that the Claimant was given a loan by Mr. Holness of company money, in the amount of £150 paid in September 2022, so that the Claimant could replace the tyres on his car when the Claimant couldn't afford to do so.
27. In my view, after hearing from Mr. Holness, I find that was a genuine act of goodwill by him.
28. The Claimant would rarely see Mr. Holness whilst at work and Mr. Holness would be at the club two or three times a week on average.
29. There were then a couple of things that damaged the initially positive relationship between Mr Holness and the Claimant on both sides.

The perceived replacement being inducted into the Hall

30. The first issue was when Mr. Holness brought in another person to learn the ropes of the management of the Hall.

31. The Claimant confirmed during his evidence that, three weeks prior to the alleged resignation/dismissal, when this additional colleague was brought on board, this caused the Claimant to believe that the new colleague was effectively going to replace him.
32. In the Claimant's view, Mr. Holness didn't want the Claimant to remain there and this additional colleague had been introduced because Mr Holness wanted his "own staff" to manage the hall.
33. The Claimant was unhappy about this and was therefore fearful that he was being quietly edged out of the Hall.
34. The Claimant admitted that Mr. Holness had not communicated any such intention to him, but that is what the Claimant believed none the less.
35. There is insufficient evidence that the Claimant communicated what he was thinking at the time to the respondent or any of its staff either.

The wholesaler transaction performed by the Claimant's partner

36. On or around 5 November 2022, Mr. Holness was absent on a family day out at Alton Towers.
37. He received a notification, on the Hall's banking account app, that there had been a payment at the local Wholesalers for £111 or so.
38. It was common ground that the Company credit card had been used. The Claimant says that the card was used to buy snacks, tea and coffee etc. for the Hall.
39. The problem was, the Claimant was not the person who used the card. The Claimant's partner had used the card and the Claimant fairly accepted during questioning that he did not have permission from the Hall for anyone else to be allowed to use the card other than the Claimant himself.
40. The Claimant argued that he thought his partner using the card wouldn't be a problem, because she was often present at the Hall with Mr. Holness' blessing to wipe down tables and generally help out.
41. The reason this caused suspicion with Mr. Holness was that the Claimant was supposed to be at work, alone, manning the Hall at 12.10 when the message from the banking app was received. Essentially, Mr. Holness was concerned that the Hall had been temporarily closed without permission so the Claimant could go to the wholesaler.
42. In my judgment, that concern was reasonable in the circumstances given the only information he had was that a transaction on the banking app had been done by the Claimant where he must have been away from work when he should have been present at work.
43. This caused Mr Holness to text the Claimant on his mobile. The text exchange went like this at page 51 in the bundle:

12.23 *"Who's been to bookers Tony?"*

14.00 "Ellen"

"With your card"

"Yes got Mars kit kat tea bags and coffee for the hall"

"£111?"

"Yes can I give you a call"

"Just out with the family"

44. Having heard from him in evidence, Mr. Holness was clearly concerned about the amount of the spend and he asked what had been bought.
45. The Claimant perceived the questions by Mr. Holness to amount to an accusation of theft because Mr. Holness' text implied that Mr. Holness was not satisfied that the quoted items would have accounted for that level of spend.
46. None of this is so far in dispute between the parties. However, the conversations happened next were in dispute.
47. There were no further text messages until another message from the Claimant which simply said, "Total 436". The Claimant said this was a confirmation of the takings for the day and this was not challenged. This message was sent at 23:32 at night.
48. Then there was the following exchange of texts after the takings message:

23:32 *"Total 436"*

"I appreciate you staying on today. Could you take your keys down to the club in the morning to Trevor please"

"So you don't want me to stay then"

49. The Claimant said the following in his witness statement about what then happened:

"4. I did not speak to Mr Holness at all that day. I sent him a message saying that the takings for the day were £436 at 23:32. He replied 10 minutes later at 23:42 saying that he appreciated me staying on for the day and asked me to hand in my keys, I needed to take them into the club in the morning and give them to Trevor. I was shocked by this message as I understood this message was a message informing me that I was dismissed. I replied, 'so you don't want me to stay then?' And received no reply to this question.

5. I took the keys into the hall the next day and heard that Mr Holness had informed everyone that I had resigned. But I have not spoken to him and had not resigned.

6. *The only message I received from Mr Holness after this was a text message on Monday 12th December asking me to repay the £150 that I had borrowed from the company.”*

50. Mr Holness remembers things very differently. He covers this in his witness statement at paragraphs 10 – 16 as follows:

“10. Later that day I called the Claimant and reminded him that the Respondent business card should only be used by him and no one else. He responded by saying ‘keep your card, I’m handing my keys in’.

11. I asked the Claimant if he was sure about his decision to resign and he said he was. I accepted his resignation and the call ended. Two people were with the Claimant and heard his side of the call.

12. I arranged for standby cover in case the Claimant left his shift immediately. He did not. He worked until the end of the shift. He texted me to inform the days takings.

[66]. 13. I thanked him for staying on the shift and asked him to take the keys back in the morning in line with the earlier decision to resign [66].

14. The Claimant replied by saying ‘so you don’t want me to stay then’. I found this strange as it was the Claimant’s decision to resign. I did not respond to this text [66].

15. The next morning the Claimant handed in his keys as agreed.

16. Later that day I phoned the Claimant to get the invoice relating to the wholesalers purchase the previous day. The Claimant said that he was angry that he had been called a thief. I told him that I had never called him a thief. My partner overheard this phone call.”

51. I heard no evidence from either Mr Holness’ or the Claimant’s partners.

52. Clearly, a conversation happened after the text exchange on 5 November, but before the text message from the Claimant asking Mr. Holness whether he wanted him to stay.

53. The Claimant said during questioning that the conversation had happened on 6 November 2022 the next day. He said that a conversation happened that day with Mr Holness and that he had not said he was resigning. The Claimant said that the conversation had started with Mr. Holness accusing the Claimant of thieving and in response the Claimant said, *“I feel like handing my keys in”*. In response, Mr. Holness had allegedly said that he was not accusing the Claimant of thieving at all and the Claimant couldn’t remember what else was discussed. He said the conversation came to end with Mr Holness simply hanging up on him.

54. Later on in his evidence, the Claimant admitted that there had been two phone calls. One on 5 November 2022 and the second on 6 November 2022. He admitted he was angry during the first call with Mr. Holness because he had been accused of being a thief.

55. When I asked the Claimant why the fact of the two calls was different to his witness statement, he said it must have slipped his mind.
56. When he handed the keys into Trevor, the Claimant says he showed Trevor the texts between him and Mr. Holness and Trevor was reported as saying *"I don't want to get involved"*.
57. So, by now it is common ground that there was a conversation on Saturday 5 November 2022 by phone between the Claimant and Mr Holness that resulted in the Claimant handing in his keys the next day.
58. In evidence, Mr. Holness went into a bit more detail about the events of 5 November 2022. The key points from his additional evidence were as follows:
- 58.1. Mr. Holness described the events that day as follows after I asked him to describe what happened during the call on 5 November 2022. He described the words used and events as follows:
- "Hi tony can you explain the credit card situation? Ellen is not an employee and not responsible for company moneys. He said are you accusing me of being a thief? I'm not a thief. I said I was not calling him a thief why would I do that. I'm just asking a questions, He said you keep your fucking keys and your fucking card I'm resigning. I said are you sure? He said yes. He then put the phone down.*
- Then I called Ian Scragg panicking and said there's a bit of an issue here whether the club might not be manned today or tomorrow. I then made calls to try to get cover to both Ian and Trevor Scragg. Trevor is Ian's brother. I didn't have Trevor's number to hand and Ian said he would organise his brother to cover. Trevor was on standby for the Saturday and I made a call to one of the lads and he said the Claimant was still there."*
- 58.2. Mr Holness says that he words used involved swearing. He remembered the Claimant said *"You can keep your fucking keys. I'm resigning"* and that the Claimant repeated that he was resigning during the conversation. However none of the swearing was in Mr. Holness' witness statement.
- 58.3. Mr Holness said he offered guidance and wanted the Claimant to calm down. Again this is not in Mr. Holness' witness statement.
- 58.4. Clearly, if I find Mr. Holness' evidence to be reliable, then he thought that the Claimant had resigned because he was then hastily trying to find cover.
- 58.5. The fact the Claimant was still at work is arguably indicative of him not having really intended to resign.
59. Both parties now agree that there was then a second call on the 6 November 2022. Again the Claimant's statement is silent on there being a call on the 6 November 2022.

60. Mr Holness says the conversation on 6 November 2022 was initiated by him because he wanted to know where the invoice was for the snacks the Claimant had purchased the day before. The Claimant appeared to be agitated again and he says the Claimant said words to the effect that no one was going to call him a thief. Mr. Holness repeated again that he hadn't called the Claimant a thief and the call ended.
61. The Claimant's evidence was confused about what happened on the 5 and 6 November 2022.
62. It was not in dispute that there were no further text exchanges after the takings text. Mr. Holness said that this was because in his other employment as a social worker, he had a serious child abuse case come across his desk and he needed to focus on that issue and given the Claimant had in his view clearly resigned, he only spent a minimal amount of further time on that issue. The Claimant offered no explanation about why he did not follow up the text message query about staying or return to work after 5 November 2022.
63. A few days later the Claimant went to the hall to collect any remaining personal possessions.
64. Having taken all of the evidence into account in the round I have concluded that neither Mr. Holness' nor the Claimant's version of events are fully accurate. For example, I do not believe the Claimant was swearing at Mr. Holness or that Mr. Holness asked the Claimant to calm down.
65. However, it is clear to me that Mr. Holness' evidence is more reliable than the Claimant's given the Claimant's evidence changed part way through oral evidence eluding to two telephone conversations rather than just one and that his evidence was starkly different in oral evidence compared to his written statement. These were fundamental differences, not simply more minor details that you would expect to be different given the efflux of time. Essentially, the Claimant's evidence at the end of his oral evidence was chronologically aligned with what Mr. Holness said even if the words used at various points were in dispute.
66. I therefore prefer Mr. Holness' evidence.
67. When considering the conversation on 5 November 2022, I believe Mr. Holness' statement at paragraphs 10 – 12 is more reliable.
68. It is most likely on balance that the Claimant was angry, but not so angry as to be swearing at Mr. Holness. I am not persuaded that the Claimant in any way lost control of his emotions, thoughts or behaviour during this call.
69. It is most likely that considered clear words of resignation were used.
70. I find it most likely that Mr. Holness asked the Claimant to confirm his decision to resign and the Claimant confirmed the resignation a second time as Mr. Holness said he did. I therefore find that this was not a rash throw away decision by the Claimant in the heat of the moment. This was considered. He confirmed the resignation twice.

71. I am further supported in this finding by the fact that the Claimant thought he was on the way out of the hall anyway after Trevor had been brought on board and was being inducted in how to run the hall. It is likely the Claimant was thinking about leaving.
72. The words were received by Mr. Holness as a definite resignation, certain enough for him to find cover as he says he did and also to inform others at the Hall that the Claimant had resigned as the Claimant said Mr Holness had done in his evidence.
73. The words used indicated an immediate resignation. The Claimant said he was "*handing his keys in*" not that he will be handing them in or intended to hand them in but he was handing them in there and then.
74. However, after the resignation, the Claimant was having second thoughts, hence why he stayed for the rest of the shift.
75. I say this because of the text the Claimant sent saying "*so you don't want me to stay then*". That indicated that in the Claimant's mind he had left the hall, but was hopeful that Mr. Holness would ask him to stay on in his employment. His hopes were then dashed when he got no response from Mr. Holness, which was a clear indicator, in my judgment, that Mr. Holness had accepted his resignation as Mr. Holness said he had during the call on 5 November 2022.
76. However, the law is clear that when a valid resignation has been communicated, it cannot be unilaterally withdrawn. There is also no need for the Respondent to accept it.
77. Consequently, once the Claimant had said he was resigning, confirmed he was resigning when asked by Mr. Holness to reconsider by Mr. Holness asking him whether he was "sure" he wanted to resign, then Mr. Holness communicated acceptance of that resignation, the resignation was considered, definite, immediate and binding and was clearly perceived by Mr Holness as an unambiguous resignation.
78. The fact the Claimant had then hoped that Mr. Holness would ask him to stay after the resignation, does not change the effectiveness of the resignation. After the conversation of 5 November 2022 had ended, the resignation could only be withdrawn by consent of the Hall.
79. It is arguable that the Claimant's text asking Mr. Holness whether he wanted the Claimant to stay was a request to withdraw the resignation. However, there is no evidence that any such request, if indeed it was one, was accepted thereby dissolving the resignation.

ANALYSIS AND CONCLUSION:

80. In coming to my findings and conclusions, I was of course not present for these events. The Claimant has the burden of proving dismissal and when reviewing the evidence, I had to consider who's evidence was most reliable. I have made no findings of dishonesty on either side and I have taken into account that by the time of the hearing a long time had gone by namely about 3 years

81. Using the summary from the **Omar** case, I have concluded as follows under each relevant principle where appropriate:

81.1. a. There is no such thing as the 'special circumstances exception'; the same rules apply in all cases where notice of dismissal or resignation is given in the employment context.

81.1.1. I have applied this guidance when coming to my conclusions.

81.2. b. A notice of resignation or dismissal once given cannot unilaterally be retracted. The giver of the notice cannot change their mind unless the other party agrees.

81.2.1. I have found that there is no evidence the respondent ever accepted any retraction of resignation even if there was one at paragraph 79 above.

81.3. c. Words of dismissal or resignation, or words that potentially constitute words of dismissal or resignation, must be construed objectively in all the circumstances of the case in accordance with normal rules of contractual interpretation. The subjective uncommunicated intentions of the speaking party are not relevant; the subjective understanding of the recipient is relevant but not determinative.

81.3.1. I refer to my findings of fact at paragraphs 70 – 73. Clearly, Mr. Holness received the words of resignation as being a definite, clear, intended and immediate resignation. I have not considered this to be determinative, but it is a very strong point in the Respondent's favour.

81.4. d. What must be apparent to the reasonable bystander in the position of the recipient of the words is that:

81.5. i. the speaker used words that constitute words of immediate dismissal or resignation (if the dismissal or resignation is 'summary') or immediate notice of dismissal or resignation (if the dismissal or resignation is 'on notice') – it is not sufficient if the party merely expresses an intention to dismiss or resign in future;

81.5.1. The Claimant's resignation was immediate as per my finding at paragraph 73. This part of the test is therefore satisfied.

81.6. and, ii. the dismissal or resignation was 'seriously meant', or 'really intended' or 'conscious and rational'. The alternative formulations are equally valid. What they are all getting at is whether the speaker of the words appeared genuinely to intend to resign/dismiss and also to be 'in their right mind' when doing so.

81.6.1. I have made findings of fact at paragraphs 67- 70 that the Claimant in fact did and certainly appeared to Mr. Holness to intend to resign in a conscious and considered way.

81.7. e. In the vast majority of cases where words are used that objectively constitute words of dismissal or resignation there will be no doubt that they were 'really intended' and the analysis will stop there. A Tribunal will not err if it only considers the objective meaning of the words and does not go on to consider whether they were 'really intended' unless one of the parties has expressly raised a case to that effect to the Tribunal or the circumstances of the case are such that fairness requires the Tribunal to raise the issue of its own motion.

and

81.8. f. The point in time at which the objective assessment must be carried out is the time at which the words are uttered. The question is whether the words reasonably appear to have been 'really intended' at the time they are said.

81.8.1. I have considered the words used at the time (5 November 2022) as per the findings of fact at paragraphs 67 – 70. Given that the Claimant confirmed his resignation was asked by Mr. Holness if he was sure and then reconfirmed it, means that the reasonable bystander receiving those words would consider them to be an unambiguous intended resignation.

81.9. g. However, evidence as to what happened afterwards is admissible insofar as it is relevant and casts light, objectively, on whether the resignation/dismissal was 'really intended' at the time.

81.9.1. I considered the aftermath of the conversation on 5 November 2022, as per my findings of fact at paragraphs 74 – 78. The Claimant's text after the event, in my judgment, indicates he really intended to resign and was indicative of him having left. Yes he chose to stay on after resigning hence why he said "stay" rather than "come back". However, that was all to do with the Claimant's unilateral and uncommunicated intentions and thoughts at the time, which were nothing to do with the Respondent. He had clearly resigned and any attempts to then unilaterally relabel, alter or retract that after the event are impermissible without the respondent's agreement, which was never given.

81.10. Consequently, it was objectively clear that the Claimant had resigned in all the circumstances. It was reasonable for Mr. Holness to have perceived the words used in context as being a resignation and the resignation was therefore effective.

81.11. The Claimant's has failed to meet his burden of proof proving he was dismissed on balance. His employment was not terminated by the Respondent. He resigned.

81.12. The Claimant's claim is therefore not well founded and is therefore dismissed.

Judgment approved by:

Employment Judge G Smart

On 23 January 2026

ANNEX 1 – LIST OF ISSUES

LIST OF ISSUES FOR FINAL HEARING

This list identifies the key questions that Tribunal will need to decide to see whether the Claimant succeeds in his claim or whether the respondent succeeds in its defence. The parties need to submit documents and witness statements relevant to these issues.

1. Was the claimant dismissed on 5 November 2022? OR:
2. Did the Claimant resign on 5 November 2022?
3. If the Claimant resigned then his claim of unfair dismissal will fail.
4. If the Claimant was dismissed, what was the reason for his dismissal?
 - a. The Respondent says it was because of the Claimant's conduct in that he:
 - i. Had failed to pay back a £150 loan; and
 - ii. Had asked his partner Mrs Ellen Duckers, to use the Company cash and carry purchasing card to buy goods without Club permission.

The Claimant admits he was given a loan of £150 but could not and cannot afford to pay it back.

The Claimant admits that he asked his partner Mrs. Duckers to go to the cash and carry and purchase stock using the card. However, he says there was no rule against that, Mrs. Duckers used to assist at the club to clean down the tables, and so she was effectively working for the Club. Therefore, it should not have been an issue.

5. Was that a potentially fair reason for the dismissal?
6. If it was, the Respondent admits that it followed no procedure in dismissing the Claimant other than having a conversation with the Claimant, to inform him that he should not have allowed Mrs. Duckers to use the card at the cash and carry shop.
7. Was that reason a sufficient reason for the Respondent to dismiss the Claimant?
8. Was the dismissal fair in all the circumstances and, when considering the substantial merits of the case and the size and administrative resources of the Respondent, did the respondent act reasonably in treating that reason as sufficient?
9. Was dismissal within the band of reasonable responses?
10. If the dismissal was unfair, what compensation is due to the Claimant?
11. Should there be an ACAS uplift or reduction for an unreasonable breach of the ACAS code of practice about disciplinary and grievances on either side?

What losses flowed from the unfair dismissal?

END.