



EMPLOYMENT TRIBUNALS

Claimant

Respondents

Miss I Tabrett

v

(1) Steve Brundle

(2) Norfolk Coastal Pubs Limited

Heard at: Norwich

On: 16 March 2018

Before: Employment Judge Postle

Appearances

For the Claimant: In person.

For the Respondents: Both respondents did not appear and were not represented.

JUDGMENT

1. The claimant was unfairly dismissed.
2. The respondents jointly or severally are ordered to pay a basic award to the claimant in the sum of £733.50.
3. The respondents jointly or severally are ordered to pay compensation to the claimant in the sum of £5,740.82.
4. Recoupment does not apply to this award.

REASONS

1. The claimant filed her claim form for unfair dismissal on 7 December 2017. That was for a claim of unfair dismissal.
2. Notice of claim was sent to Mr Brundle the respondent at 'The Golden Fleece, the Quay, Wells Next The Sea, Norfolk, NR23 1AH' on 22 December 2017 together with the standard Employment Tribunals letter notice of claim which set out clearly in two places that a hearing was to take place on Friday 16 March 2018 at 10am at Norwich Magistrates Court, Bishopgate, Norwich, Norfolk, NR3 1UP. The letter also contained the standard case management orders. The response was filed by

Mr Brundle/Norfolk Coastal Pubs Limited on 10 January 2018. It is clear in those circumstances that not only did the respondent know about the claim but they clearly knew about today's hearing.

3. The claimant having worked at the Golden Fleece originally as a restaurant supervisor ultimately becoming general manager. Apparently, the Golden Fleece was sold by Mr Brundle on or about 27 January 2018, and he in turn purchased a new business venture 'The Dormy House Hotel, Cromer road, West Runton, NR2 79QA'.
4. On 15 March 2018 Mr Brundle applied for a postponement of these proceedings on the grounds allegedly that he knew nothing about today's hearing. That is in direct conflict with the notice of hearing that clearly Mr Brundle/his company would have received otherwise he would not have filed a response as he did on 10 January 2018.
5. Employment Judge Postle therefore refused the respondent's application for a postponement on the grounds that the respondent clearly was aware of these proceedings taking place today at Norwich.
6. At this morning's hearing Miss Tabrett has appeared, Mr Brundle has failed to appear or send a representative. Employment Judge Postle in reaching his decision has considered the response filed.
7. The tribunal then proceeded to hear oral evidence from Miss Isabelle Tabrett. She told the tribunal that she commenced her employment with Mr Brundle at the Golden Fleece public house at Wells Next The Sea in Norfolk on 5 May 2014. Originally the claimant started as the restaurant supervisor, becoming general manager in 2015. The claimant is not sure of the actual date she was promoted because she never actually received a revised contract from the respondent.
8. The claimant continued in the position of general manager until June 2017 when she became part time and her hours then varied between 20 and 30 hours per week, but nothing changed as regards her position as general manager.
9. In August 2017 the claimant recommenced full time again in the position of general manager. During the period preceding August up until her dismissal the claimant had received no warnings and no suggestion from Mr Brundle or indeed anybody else that she was not performing the role of general manager in an appropriate or satisfactory manner.
10. The claimant was granted holiday for the period 8 October to 15 October.
11. During the claimant's holiday out of the blue without any warning or previous concerns being raised she received an email from Mr Brundle questioning her ability as general manager. He mentioned the fact that he was acquiring a hotel at West Runton and was about to leave the Golden Fleece. He suggested he was about to advertise or interview for the role of general manager for the Golden Fleece. He then raised in the email a

number of issues he had with the claimant's performance not previously raised whether orally or in writing.

12. The claimant was somewhat shocked and surprised by this email given the fact that previously Mr Brundle had never questioned her capability or raised any concerns about her role as general manager.
13. A meeting was arranged for 11 October although there was no suggestion in the email of the 11 October from Mr Brundle that any meeting was to be disciplinary. In fact, he concluded his email of 11 October to the claimant with "would welcome an early meet on your return or convenience". Given the claimant's concerns she wanted to meet as soon as possible, hence the 11 October.
14. The claimant was not made aware at the outset of this meeting that it was some form of disciplinary. Mr Brundle proceeded to outline the various points in the email. Particularly he said the claimant was always leaving to go home and sort her dog out. The claimant denied this and indicated this could be seen from her timesheets and the CCTV, that this allegation was simply not true.
15. Mr Brundle alleged that the claimant had allocated her recent holiday without obtaining his authority. The claimant was able to point out that this was simply not correct as Mr Brundle had signed a holiday request form for her holiday in October.
16. Mr Brundle alleged that a member of staff, Luke Wilson, had resigned giving only one weeks' notice when he expected one month. He believed the claimant had allowed this lesser period of notice because Mr Wilson was a friend of the claimant. The fact of the matter is the employee Mr Wilson had no contract of employment, he was part time and had only been employed for six months, in any event handed in his notice to his line manager which was the head chef. It was in fact nothing to do with the claimant.
17. Mr Brundle went on to suggest that on a recent sick day the claimant had actually come in, he alleged she was not actually sick. It seems at odds with Mr Brundle actually sending the claimant home.
18. The meeting was left that Mr Brundle was going to consider a way forward and let the claimant know.
19. On 16 October the claimant received an email from Mr Brundle stating inter alia that he had listened to what the claimant had said, the fact that he was even questioning her replies led him to believe that he needed to appoint a new general manager. He mentioned the issue over holiday and the number of days and then simply stating all other issues mentioned including "It is impossible for me to let you continue as general manager, I would ask that you come in on Wednesday at mid-day for a handover and discuss your severance pay. I will not require you to work and I wish you well in the future and I'm sorry for this horrible situation."

20. The claimant's employment was terminated and there was to be no appeal.
21. When the claimant attended on Wednesday 18 October before the handover Mr Brundle indicated that he would not require the claimant to work her months' notice but would pay her money in lieu of notice. That never transpired.
22. It is, in the circumstances difficult to see the reason for the claimant's dismissal, whether conduct or capability it is not clear. The procedure up to and including dismissal was completely flawed. There appears to have been no proper investigation into the allegations put to the claimant at the meeting. If it is a capability reason for dismissal the claimant simply prior to the meeting had no warnings or reason to believe her position as general manager was either under threat because she was not performing the task appropriately. There had been no meetings previously to discuss any short comings.
23. It may well be that the respondent selling the business had been informed by the new owners in effect they wanted their own general manager.
24. Quite simply the decision to dismiss whether on grounds of conduct or capability was flawed, there was no reasonable investigation, the process leading up to and including dismissal lacked any investigation and if it is a capability dismissal there were no warnings of the need for the claimant to improve or advice on her short comings.
25. Prior to the meeting on 11 October there was no warning that this was in fact a disciplinary that could lead to the claimant's dismissal. The allegations put by Mr Brundle to the claimant at the meeting, the claimant was able to adequately deal with. If it is therefore a conduct dismissal it is difficult to see how Mr Brundle/respondents had reasonable grounds to form a reasonable belief in any alleged conduct having occurred, even if it had, the question of whether the sanction of dismissal is a reasonable response on the facts known on 11 October is questionable. Quite simply on all angles it is a procedurally and substantially unfair dismissal.
26. The tribunal then proceeded to deal with compensation. The claimant had been told she was not required to work her notice and would be paid in lieu of notice turned out to be untrue, the claimant was never paid for this period.
27. As to mitigation, the claimant lives in Wells and signed up with a recruitment agency. There was no work available, given that it is a seaside resort and the nature of her work is seasonal. The recruitment agency she signed up with offered her one job in Thetford, which is a round trip of 2 hours which would make it uneconomic to take. Fortunately, the claimant obtained new employment in Burnham Market on 6 January as front of house manager in a restaurant known as "29". The

income from that is broadly the same as her income from the Golden Fleece.

28. Compensation has therefore been assessed as follows:-

Basic award

Age 22 and 3 complete years = 1.5 weeks' gross pay £733.50

Pay in lieu of notice

18 October until 18 November £2,230.65

Immediate loss

19 November to 19 December £2,230.65

20 December to 6 January £1,029.52

Loss of Statutory rights £250.00

Total award payable £6,474.32

29. The claimant did not receive any benefits during her period of unemployment and therefore recoupment does not apply to this award.

30. There is no outstanding holiday pay the claimant has confirmed.

Employment Judge Postle

Date: 27 / 4 / 2018

Sent to the parties on:

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For the Tribunal Office