



EMPLOYMENT TRIBUNALS

Claimant: Mrs Z Beri

Respondent: Streets Ahead Estate Agents LLP

Heard at: London South Croydon by CVP.

On: 30 September 2020

Before: Employment Judge Truscott QC (sitting alone)

Appearances

For the claimant: In person

For the respondent: Mr Hay Director.

This has been a remote hearing which was not objected to by the parties. The form of remote hearing was video. A face to face hearing was not held because it was not practicable to do so.

JUDGMENT

- (1) The claim of unfair dismissal is dismissed as the claimant does not have the qualifying period of employment with the respondent.
- (2) The claim of unauthorised deduction of wages is dismissed.
- (3) The counter claim by the respondent is dismissed.

REASONS

Preliminary

The claimant and Mr Hay were in attendance at the hearing and had provided a bundle of documents. An employer's contract claim was registered on behalf of the respondent but it does not insist on the claim.

The issues

The issues between the parties were identified at a preliminary hearing on 22 May 2020 as follows:

Limitation issues

- (i) The Claimant had only been employed for four months. In the claim form it was stated that this was a claim for automatic unfair dismissal. The Claimant told the tribunal that it was automatically unfair because

they had breached the contract and failed to progress her grievance process.

Unfair dismissal

- (ii) What was the principal reason for dismissal and was it a potentially fair one in accordance with sections 98(1) and (2) of the Employment Rights Act 1996 (“ERA”)? The respondent denies dismissing the Claimant, they state she refused to attend a meeting and then resigned.

Unauthorised deductions

- (iii) Did the respondent make unauthorised deductions from the claimant’s wages in accordance with ERA section 13 by and if so, how much was deducted? It was not disputed that parking charges were deducted. The Respondent stated that this was not a contractual entitlement.

Breach of contract

- (iv) How much notice was the claimant entitled to receive? The Claimant accepted that she resigned and did not give notice
- (v) The Respondent claims that one week’s notice was paid to the Claimant. The Respondent will state that the Claimant was paid in full.

Remedy

- (vi) If the claimant succeeds, in whole or part, the Tribunal will be concerned with issues of remedy and in particular, if the claimant is awarded compensation and/or damages, will decide how much should be awarded.

Findings of fact

1. The claimant was employed by the respondent, an estate agency, as a Sales Progressor, from 4 March 2019 until her resignation without notice on 25 June 2019.
2. She was paid until 30 June 2020 and also paid accrued holiday pay.

Law

3. The right to claim unfair dismissal is set out in section 94 of the ERA which provides:
 - (1) An employee has the right not to be unfairly dismissed by his employer.

Section 108 provides:

Exclusion of right

Qualifying period of employment

- (1) Section 94 does not apply to the dismissal of an employee unless he has been continuously employed for a period of not less than [two years] ending with the effective date of termination.

Discussion and decision

4. The claimant thought that the two-year qualifying period did not apply to her as the respondent had failed to progress her grievance process. The qualifying period does apply to her.
5. The claimant resigned without giving notice. The contract provided for either party to give one week's notice. The respondent paid the claimant until the end of the week in which she resigned and also paid accrued holiday pay.
6. The claims fall to be dismissed.

Employment Judge Truscott QC
Dated: 30 September 2020