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EMPLOYMENT TRIBUNALS

Claimant

Mr H Cajic-Seigneur

Respondent

Triyoga (UK) Ltd

AND

Heard at: London Central

On: 10 January 2022

Before: Employment Judge Coen (Sitting alone)

Representation

For the Claimant: Dr Magdalena Cajic-Seigneur (lay representative)

For the Respondent: Mrs Jade Letts, Citation Ltd

JUDGMENT

The judgment of the Tribunal is that:

- (1) the Claimant was not employed under an approved English apprenticeship agreement pursuant to the Apprenticeships, Skills, Children and Learning Act 2009;
- (2) the Claimant was employed under a common law contract of apprenticeship;
- (3) the Respondent acted in breach of contract by terminating the Claimant's contract of apprenticeship on grounds of redundancy; and
- (4) remedy be determined at a separate hearing.

REASONS

Claims and Issues

1. The Claimant was employed by the Respondent with effect from 29 October 2018 as part of an apprenticeship programme with a view to obtaining a Level 7 ACCA apprenticeship. The arrangements envisaged a three-year apprenticeship consisting of work, on-the-job training and classroom-based training. The Claimant

was made redundant with effect from 1 October 2020 prior to the end of the programme.

2. The Claimant brought a claim against the Respondent for breach of contract, 'unfair selection for redundancy' and 'breach of Government funding rules' as a consequence of the early termination (on grounds of redundancy) of his contract of employment and apprenticeship arrangements with the Respondent. The Claimant alleged that there were certain irregularities in the contractual framework under which he was employed and referred to a previous Employment Tribunal decision (**Beddoes v Woodward Electrical Limited 2600221/2017**) to support his view that the arrangements were not capable of proper termination for reason of redundancy.

3. The Respondent refuted the Claimant's claims on the basis that the contract had been terminated on the required notice and that statutory protection in connection with unfair dismissal and redundancy was not applicable as the Claimant had fewer than two years' continuous service.

4. It is worth referring briefly at this point to the statutory regime relevant to the arrangements. A common law contract of apprenticeship is the oldest form of apprenticeship agreement and gives rise to enhanced rights of employment for an apprentice. The Apprenticeships, Skills Children and Learning Act 2009 (the "2009 Act") contains provisions around certain types of statutory apprenticeship. Most notably the 2009 Act sets out information about the provisions required to create an arrangement known as an approved English apprenticeship. An approved English apprenticeship is, in principle, capable of termination on grounds of redundancy or otherwise provided that provisions to that effect are contained in the agreement. It is, therefore, distinct from a common law contract of apprenticeship which gives rise to greater restrictions on termination.

5. To that extent, the key issues for determination in the case were as follows:

- Did the arrangements give rise to an approved English apprenticeship under the 2009 Act?
- If so, what were the provisions of the agreement in respect of termination, by reason of redundancy?
- If not, did the arrangements give rise to a common law contract of apprenticeship?
- If so, was it possible to terminate the contract of apprenticeship on the basis of redundancy?

Procedure, Documents and Evidence Heard

6. The case was listed for a short virtual hearing before me held remotely by CVP on 10 January 2022. The hearing was attended by the Claimant, and by Barnaby Reasons (a Commercial Director of the Respondent) and Emma Mazzullo (a financial controller and employee of the Respondent who was the Claimant's

manager from September 2019 until termination of his employment). The Claimant was represented by his mother, Dr Magdalena Cajic-Seigneur. The Respondent was represented by Mrs Jade Letts of Citation Ltd.

7. At the hearing, I heard evidence from the Claimant and Emma Mazzullo.

8. A large bundle of documents was put before the Tribunal providing detail about disciplinary issues arising in the course of the Claimant's employment and the procedures followed in relation to the Claimant's redundancy. A number of additional documents were handed up during the course of the hearing. It is important to note that, in light of the provisions of the 2009 Act, the primary issue for determination related to the contractual matrix governing the Claimant's employment. To that extent, much of the information relating to the procedures followed in connection with the Claimant's redundancy was not directly relevant to the issues for determination and did not require detailed consideration.

9. As the Respondent's paperwork did not address the statutory scheme set out in the 2009 Act, I heard arguments from the parties in connection with the issues raised by, and the requirements of, the 2009 Act and as to whether the contractual documentation, in the form entered into by the parties, fulfilled those requirements.

10. I have not considered any issues relating to the claim of 'breach of Government funding rules' on the basis that it is not within the power of the Tribunal to do so.

11. Following the hearing I requested some additional documents (being appendices to a Commitment Statement) which were referred to, but not included in, the bundle from the parties with a view to enabling me to perfect these written reasons. The documents requested were not supplied and I have proceeded to prepare these written reasons without seeing them in order to be able to issue the written reasons to the parties. In any event, the fact that I have not seen the documents has not impacted on my decision.

Law

12. I have considered the statutory regime set out in the 2009 Act as well as the common law relating to apprenticeships.

Statutory regime

13. Section A1(2) of the 2009 Act provides as follows:

An approved English apprenticeship is an arrangement which

*(a) takes place under an approved English apprenticeship agreement,
or*

(b) is an alternative English apprenticeship,

and in either case satisfies any conditions specified in Regulations made by the Secretary of State.

14. Section A1(3) of the 2009 Act provides as follows:

An approved English apprenticeship agreement is an agreement which:

(a) provides for a person (“the apprentice”) to work for another person for reward in a sector for which the Secretary of State has published an approved apprenticeship standard under section A2;

(b) provides for the apprentice to receive training in order to assist the apprentice to achieve the approved apprenticeship standard in the work under the agreement; and

(c) satisfies any other conditions specified in regulations made by the Secretary of State.

15. Section A5 of the 2009 Act provides that an approved English apprenticeship agreement is to be treated as a contract of service and is specifically not a common law contract of apprenticeship.

16. Section A6 of the 2009 Act provides that where an agreement that satisfies the conditions for an approved English apprenticeship agreement also contains an inconsistent provision, that inconsistent provision is to be treated as having no effect.

17. The Apprenticeships (Miscellaneous Provisions) Regulations 2017 (SI 2017/1310) (the “2017 Regulations”) make further provision in respect of approved English apprenticeship agreements.

18. In particular, Regulation 3(2) of the 2017 Regulations provides that each approved English apprenticeship agreement must specify the amount of time the apprentice is to receive off-the-job training during the period of the agreement. Off-the-job training means training which is not on-the-job training and is received by the apprentice during the apprentice’s normal working hours, for the purpose of achieving the approved apprenticeship standard to which the agreement relates. On-the-job training means training which is received by the apprentice during the apprentice’s normal working hours for the sole purpose of enabling the apprentice to perform the work to which the agreement or arrangement relates.

19. Regulation 4(2) of the 2017 Regulations provide that each approved English apprenticeship agreement must specify the practical period. The practical period means the period for which the apprentice is expected to work and receive training under an approved English apprenticeship agreement. Regulation 5 of the 2017 Regulations provides that the practical period must not be less than 12 months except where certain conditions (inapplicable in the current case) apply.

20. The Apprenticeships (Alternative English Completion Conditions and Miscellaneous Provisions)(Amendment)(Coronavirus) Regulations 2020 SI 2020/1120 enable an apprentice who was in the process of completing a course of training under an English apprenticeship agreement, but is dismissed by reason of redundancy on or after 15 October 2020, to complete the apprenticeship (without any specified time limit for doing so) if they have completed at 75% of the course of training. These provisions are not relevant to the extent that the Claimant was dismissed before 15 October 2020 and had not in any event completed 75% of the course of training at the time of his dismissal.

Common law of apprenticeship

21. The common law of apprenticeship has been in existence for centuries. A contract of apprenticeship falls within the definition of a contract of employment in section 230(2) of the Employment Rights Act 1996.

22. A contract of apprenticeship is of a special character as its essential purpose is training, the execution of work for the employer being secondary (**Dunk v George Waller & Sons [1970] 2 QB 163**). It is an essential characteristic of the relationship that education and training is provided in the trade or profession and that the apprentice agrees to work for, and follow all reasonable instructions of, the employer (**Edmonds v Lawson and another [2000] EWCA Civ 69**).

23. Apprentices employed under a contract of apprenticeship have additional rights on termination of the employment. A contract of apprenticeship is not terminable at will as a contract of employment is at common law.

24. **Wallace v CA Roofing Services Ltd [1996] IRLR 435** was a decision of the Queen's Bench Division of the High Court. It concerned a contract of apprenticeship for a sheet metal worker who was dismissed on grounds of redundancy. It was held that the contract of apprenticeship was a distinct entity known to the common law. Its first purpose was training; the execution of work for the employer was secondary. The contract was for a fixed term. Ordinarily, it could be terminated only if the employer's business ceased as a going concern, or changed so fundamentally that the apprentice could no longer be taught the trade for which he was engaged. Save where these conditions applied, a redundancy situation had no impact on the contract of apprenticeship, nor did the kind of personal unsuitability which might ordinarily justify the dismissal of an employee.

25. **Whiteley v Marton Electrical Ltd [2003] IRLR 197** was a decision of the Employment Appeal Tribunal concerning an apprentice who was dismissed in connection with a downturn in orders. He had been employed under a modern apprenticeship pact. The pact was a standard form agreement entered into by the apprentice, the employer and a local training and enterprise council, under which the employer undertook to train the apprentice under the supervision of the training and enterprise council. Under clause 2.2 of the pact the apprentice agreed to be an employee of the employer and to comply with the employer's terms and conditions of employment for the duration of the training plan. Under clause 3.2 of the pact the employer agreed to employ the apprentice for the duration of the training plan. Clause 4.5 of the pact provided that if the employer was unable to

complete the apprenticeship then the training and enterprise council was to assist in finding the apprentice the opportunity to complete the apprenticeship elsewhere. On appeal it was held that the pact was not an ordinary contract of employment but was intended to provide the apprentice with training for the duration of his training plan. The apprenticeship was capable of being objectively determined on the happening of a specified event, namely the satisfactory completion of the apprentice's training and that the provisions of the pact would prevail in the event of any inconsistency with the employer's terms and conditions as it would defeat the principal purpose of the pact if the employer could terminate the contract in the same way as for an ordinary employee. It was noted that the fact that clause 4.5 provided for what would happen on a breach of contract, did not mean that it is any the less a breach.

26. In **Revenue and Customs v Jones and others [2014] UKEAT 0458/13**, a case concerning entitlement to the National Minimum wage, the position in relation to dismissal of apprentices was summarised and was stated as follows:

'The ordinary law as to dismissal does not apply to contracts of apprenticeship. It can be brought to an end by some fundamental frustrating event or repudiatory act but not by conduct that would ordinarily justify dismissal. It would appear that the frustrating event or repudiatory act must have the effect of fundamentally undermining the ability to teach the apprentice.'

27. In **Beddoes v Woodward Electrical Limited [2017] IRLR 435** an apprentice was employed in purported compliance with the provisions of the 2009 Act (as in force at the time). He was dismissed on the basis that he was not making adequate progress. It was held that the provisions of the 2009 Act had not been met on the basis that there was no approved apprenticeship standard. The arrangement fell to be determined as a common law contract of apprenticeship. Following the case law mentioned above, the judge found that there was no fundamental frustrating or repudiatory act which fundamentally undermined the ability to teach the apprentice.

28. The courts have also considered the status of modern tripartite agreements in the context of apprenticeships. In **Flett v Matheson [2006] IRLR 277, CA**, the Court of Appeal confirmed that a modern tripartite apprenticeship arrangement can constitute a common law contract of apprenticeship so long as it satisfies the traditional criteria relating to the duration of the agreement and the employer's obligations under it. The fact that the training is provided by a third party and not by the employer is not crucial to the analysis of the employer's obligations under the arrangements. In the circumstances, the arrangements were potentially consistent with a common law contract of apprenticeship and accordingly, it was not open to the employer to dismiss the employee on reasonable notice.

Facts

29. For ease of reference, I have summarised the provisions of the Contract and the Commitment Statement before setting out factual information in connection with the Claimant's employment.

Contract of Employment

30. The Claimant was employed as a finance assistant pursuant to a contract of employment between the Claimant and the Respondent dated 25 October 2018 (the "Contract"), with employment expressed as commencing on 29 October 2018. Clause 2.2 of the Contract provided that the contract could be terminated by either party on two months' notice at any time after the probationary period (being the first three months of the Contract).

31. The Contract contained further provisions for dismissal without notice (for example on grounds of gross misconduct). It contained no reference to redundancy.

32. The Contract provided that no variation would be of any effect unless it was agreed in writing and signed by or on behalf of both parties.

33. It also contained a clause (numbered 13), pursuant to section 1 of the Employment Rights Act 1996, confirming the statutory particulars of employment not contained in the body of the Contract, being broadly provisions around the date of commencement of continuous employment (expressed as 29 October 2018), the absence of collective agreements and provisions relating to grievance and disciplinary issues.

Commitment Statement

34. A document referred to as a Commitment Statement was subsequently entered into between the Claimant, the Respondent and Kaplan (a training provider). The Commitment Statement was signed by the Claimant on 19 November 2018, by the Respondent on 16 January 2019 and by Kaplan on 6 November 2018. The 'Start date of the Apprenticeship' was expressed as 27 November 2018 which was also expressed as the 'First date in [sic] learning (start date)'. The 'Planned End Date' of the apprenticeship was expressed as 27 November 2021 which was also the 'Planned End Point Assessment date'.

35. The Commitment Statement set out a list of responsibilities of each of the Claimant, the Respondent and Kaplan.

36. In a section headed 'Employer's responsibilities', the Employer was expressed to be subject to the following obligations (amongst other provisions):

To employ the Apprentice and pay the Apprentice in accordance with terms and conditions taking into account relevant legislation;

To meet the legal requirements of Employers in relation to Apprenticeship Agreements and confirm that there is an Employer Apprenticeship Agreement in place at the start of, and throughout, their apprenticeship. For standards, this is defined in section a1(3) of the Apprenticeships, Skills, Children and Learning Act 2009 (as amended by the Enterprise Act 2016); for frameworks, this is defined in section 32.

To allow the Apprentice to attend classes or complete work that contributes to a minimum of the 20% off the job training requirement.

The apprentice must be employed until end-point assessment (where applicable) is completed.

37. The Apprentice's responsibilities included the following requirements:

To work for the Employer to the best of his or his ability and in accordance with the Employer's policies and procedures.

To observe the Employer's terms and conditions of employment.

To maintain an online portfolio to capture both on and off the job learning diary to evidence the minimum 20% off-the-job training requirement stated in the apprenticeship funding rules.

38. The Commitment Statement contained a number of disparate references to redundancy as follows:

In the Apprentice's responsibilities - A break in learning is possible if there has been a change in circumstance, e.g. maternity, long-term sickness, redundancy, etc. Kaplan must be informed at the earliest opportunity and the break in learning policy must be adhered to and agrees to Kaplan providing their Employer with access to information on their conduct, progress, attendance and punctuality.

In Kaplan's responsibilities - Should the apprentice be made redundant through no fault of their own, Kaplan should make reasonable efforts to find the apprentice a new employer.

39. The Commitment Statement contained a provision at the end as follows:

NB This Commitment Statement does not replace a Contract of Employment but should form part of it whilst the Apprentice is on the Apprenticeship Programme. It may be necessary for Kaplan to vary the terms of the Commitment Statement from time to time in order to comply with directions given by the Education and Skills Funding Agency. All changes will be confirmed in writing.

40. The Commitment Statement provided that the applicable standard is that of an accountancy or taxation professional. It stated that the apprenticeship is one envisaging Government/employer co-investments (90%/10%).

41. The Commitment Statement also referred to a number of appendices, which were not contained in the Bundle and which I have not seen, although I requested them from the parties. To that extent it is not clear whether the contents of those appendices reflect their description in the Commitment Statement. These included the following:

Milestone map — includes breakdown of Kaplan's delivery of apprenticeship and targeted apprenticeship milestones –

Functional Skills delivery and assessment milestone map –

Off-the-job calculator - Evidence supporting the suitability of the Apprentice for the Apprenticeship programme –

Additional Learning Support Plans and related documentation (if applicable) –

APL/RPL Discounts — including technical enrolment forms and relevant documentation where a reduction in either funding, duration or both has been applied.

Summary of Facts

42. The Claimant was employed by the Respondent as a finance assistant in the Respondent's business. The Respondent operates a business which provides yoga and pilates classes, and other treatments to members of the public. The Claimant commenced employment on the basis of the arrangements described above. The apprenticeship programme involved a combination of supervised office tasks carried out for the Respondent as well as on-the-job training, being both formal training provided by Kaplan and informal training provided by the Respondent in the course of employment by the Respondent.

43. On 21 January 2020 the Respondent initiated a disciplinary procedure in relation to the Claimant, on the basis of some instances of non-attendance by the Claimant at a number of Kaplan training sessions and of alterations by the Claimant to his hours of work and annual leave. The Claimant attended a disciplinary meeting in relation to these issues, but the Respondent did not pursue these issues and they were not expressed as the reason for the eventual termination of the Claimant's employment.

44. The Respondent's business was heavily impacted by the COVID-19 pandemic and the Claimant was placed on furlough on 1 April 2020 shortly following the commencement of the COVID-19 lockdown in England. The Respondent commenced a redundancy process in July 2020 as part of a wider redundancy programme in the Claimant's business. The Claimant objected to the redundancy and sought to appeal the decision. Notwithstanding this, the Claimant was made redundant and provided with two months' notice pursuant to the Contract. The effective date of termination of the Claimant's employment was 1 October 2020.

The Claimant alleged that the redundancy was procedurally unfair on a number of grounds. I heard evidence from the parties in relation to the redundancy process, but was not required to consider it in detail as it was not relevant to the issues to be decided at the hearing. In particular, the Claimant does not have two years of

qualifying service with the Respondent and is, therefore, not entitled to statutory protection from redundancy or unfair dismissal in the context of his employment.

45. The Claimant also alleged that the Respondent failed to provide the required level of mentoring and supervision to the Respondent. While I heard evidence on these issues, I did not draw any conclusions from the evidence, on the basis that these issues were not required to be determined in connection with the Claimant's claims.

Submissions

46. As the Respondent's paperwork did not address the statutory scheme set out in the 2009 Act, I heard arguments from the parties in connection with the issues raised by the 2009 Act. The Claimant argued that the arrangements had not created an approved English apprenticeship under the 2009 Act because the contract of employment did not contain the provisions required by the 2009 Act. The Claimant had, therefore, expected his employment to continue until the end of the apprenticeship in November 2021 as set out in the Commitment Statement. The Respondent was of the view that the arrangements were intended to create an approved English apprenticeship under the 2009 Act and that the contractual paperwork satisfied the conditions required for an approved English apprenticeship agreement as set out in the 2009 Act. I asked the Respondent's representative for her views on the fact that the Commitment Statement provided for employment to continue until the 'end point assessment (where applicable) had been reached'. The Respondent's representative was of the view that the words 'where applicable' were intended to demonstrate that the arrangements were in fact terminable and were therefore consistent with the references to redundancy elsewhere in the Commitment Statement.

47. There was no dispute between the parties around the fact that a three-year apprenticeship arrangement had been envisaged, with the study period amounting to 20% of the programme and time spent carrying out the finance assistant role as 80% of the programme.

Analysis

48. It was necessary to consider whether the contractual documentation entered into between the Claimant and the Respondent was such that it created an approved English apprenticeship agreement under the 2009 Act. I conclude that, in the circumstances, the documentation does not fulfil the statutory requirements so as to bring the arrangements within the scope of the 2009 Act. My analysis is set out below.

49. Section A1 of the 2009 Act requires an agreement which provides for the apprentice to work for reward and receive training in an occupation for which a standard has been published and which satisfies the additional conditions set out in the 2017 Regulations.

50. As a preliminary point, I am satisfied that the qualification for which the Claimant was studying, as described in the Commitment Statement, was an

approved apprenticeship standard as required by the 2009 Act. 'Level 7 Accounting/Taxation Professional' is listed as a Standard (Ref. ST0001) on the list of apprenticeship standards contained on the website of the Institute for Apprenticeships & Technical Education. It is referred to as having been approved for delivery from 7 November 2017 with a typical duration of 36 months.

51. I am also satisfied that the Commitment Statement contains sufficient information to satisfy Regulations 3(2) and 4(2) of the 2017 Regulations in respect of the amount of time required to be spent on off-the-job training and the length of the practical period. The Commitment Statement makes clear that off-the job training is to comprise 20% of the programme and the length of the practical period is described as running for a period of three years.

52. However, despite the above, I am not persuaded that the totality of the arrangements put in place in this case are capable of satisfying the requirements of the 2009 Act for the reasons set out below.

53. The Contract does not on its own satisfy the requirements of the 2009 Act so as to create an approved English apprenticeship agreement. While the Contract refers to the Claimant's employment as a finance assistant and satisfies the requirements of section 1 of the Employment Rights Act 2006, it makes no reference to the other requirements under the 2009 Act, for example, the practical period (being the three-year period of the apprenticeship) and the training requirements.

54. Neither does the Commitment Statement alone satisfy the requirements of the 2009 Act. While it includes the statutory requirements in relation to the practical aspects of the training of apprentices, it does not create a relationship of employment where one party is required to work for another party for reward and this fact is acknowledged by the provision in the Commitment Statement to the effect that the Commitment Statement does not constitute a contract of employment.

55. I have given consideration to the fact that the Commitment Statement contains a provision to the effect that it should form part of the Contract for the period for which the apprentice is on the apprenticeship programme. In light of this, I have considered below whether the Commitment Statement can be seen to operate as a variation of the Contract, meaning that the combined effect of both documents would be to create an agreement which satisfied the 2009 Act and allowed termination by reason of redundancy in the circumstances of the Respondent's business.

56. In **Whitely**, Underhill J considered a situation where there was a contract of employment and a tripartite apprenticeship agreement. There, it was held that, in the event of inconsistency in the terms, the provisions of a tripartite arrangement prevailed over a contract of employment. This was on the basis that it was plainly the tripartite agreement which the parties intended should govern their relationship as it contained the main provisions about the apprenticeship.

57. In the current case, the provisions of the Contract and the Commitment Statement are inconsistent in relation to the requirements around termination of the arrangements. The Contract permits termination by notice while the Commitment Statement states that the employment must continue until the end point assessment 'where applicable' has taken place. The Commitment Statement contains no express right for the Respondent to terminate on grounds of redundancy but makes sporadic references to redundancy, being 'redundancy through no fault of the apprentice' or 'a break in learning caused by long-term sickness, maternity or redundancy'. It is clear, therefore, that the provisions of the Commitment Statement, envisage termination in much more limited circumstances than those in the Contract. This is particularly the case when seen against the backdrop of the training obligations, the term of the arrangements and the final assessment as described in the Commitment Statement. To that extent, by envisaging the continuation of the arrangements until the end-point assessment, the Commitment Statement required a higher threshold for termination by redundancy and did not, in my view, envisage a redundancy on the grounds of a business reorganisation as a result of changed economic circumstances as was the case for the Respondent's business. In my view this demonstrates that, had the Commitment Statement operated properly to vary the Contract, the terms of the Commitment Statement are akin to the provisions of a common law contract of apprenticeship.

58. My view is that, in order for the arrangements to have satisfied the requirements of the 2009 Act, it would have been necessary for them to have been contained in 'an agreement' as required by the 2009 Act. It would be possible, under general contractual principles, for a compliant agreement to have been created by means of a variation so that as amended, it contained all the required provisions under the 2009 Act. In the circumstances, the variation has operated to limit or restrict the Respondent's power to terminate the Claimant's employment in the case of redundancy.

59. To my mind, therefore, the documentation entered into between the Claimant and the Respondent does not constitute an approved English apprenticeship. To that extent, it is not necessary to consider the termination provisions contained in the Contract as the common law of apprenticeship requires consideration instead.

Common Law Contract of Apprenticeship

60. The arrangements between the Claimant and the Respondent will fall to be considered under the common law of apprenticeship.

61. In the current circumstances, I consider that the arrangement constitutes a common law contract of apprenticeship. The parties agreed that the intention was to create a three-year apprenticeship arrangement under the statutory scheme in the 2009 Act, delivered by an employer and a third-party training provider and availing of Government funding. The language used in the documentation makes numerous references to apprentices and apprenticeship, as well as to the funding obligations and the training requirements for the Claimant. At no point have the

parties argued that a relationship solely of employment (as opposed to apprenticeship) was intended to be created. While the Claimant was an employee, he was also an apprentice (as was accepted in the **Wallace**, **Whitely** and **Beddoes** cases).

62. My view is that the conditions required to terminate a common law contract of apprenticeship on grounds of redundancy have not been met. While I accept that the Respondent's business has been adversely impacted by the COVID-19 pandemic and that a large number of redundancies were made, those redundancies have not resulted in the closure of the business nor do they represent a fundamental change in the character of the enterprise in question. The Respondent's business continued after the dismissal of the Claimant. In addition, the Respondent benefitted from Government funding for the apprenticeship and was not, as I understand it, responsible for defraying all the costs of the Respondent's salary. To that extent, the conditions stipulated originally in **Wallace** have not been met.

Conclusions

63. I find that the statutory requirements sufficient to create an approved English apprenticeship agreement pursuant to the 2009 Act were not met. To that extent, the contract of employment between the Claimant and the Respondent constituted a common law contract of apprenticeship which could not lawfully be terminated on grounds of redundancy in the circumstances of the case. The Claimant's contract had accordingly been breached.

64. I have separately issued a case management order setting out preparatory steps for a remedy hearing.

Employment Judge Coen

Dated: 27 January 2022

Judgment and Reasons sent to the parties on:

28/01/2022.

For the Tribunal Office