



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs K Lacey

**Respondent:** Oxford University Hospitals NHS Foundation Trust

**Heard at:** Reading **On: 18, 19, 22, April and (in chambers) 9 May 2024**

**Before:** Employment Judge Gumbiti-Zimuto

**Appearances**  
**For the Claimant:** In person  
**For the Respondent:** Miss R Owusu-Agyei, counsel

## RESERVED JUDGMENT

The claimant's complaint of unfair dismissal is not well founded and is dismissed.

## REASONS

1. In a claim form presented on 3 April 2022 the claimant made complaints of unfair dismissal, unauthorised deduction from wages, and disability discrimination. The claimant's complaints of unauthorised deduction from wages and disability discrimination were withdrawn and dismissed on 13 May 2023.
2. The issues to be decided in the claimant's claim of unfair dismissal were set as follows on the 13 May 2023:
  - 2.1 Was the claimant's dismissed for a potentially fair reason? The respondent relies on redundancy.
  - 2.2 Was the claimant's dismissal with the range of reasonable responses of a reasonable employer?
  - 2.3 Was redundancy process followed by the respondent fair and reasonable in all the circumstances?
  - 2.4 If the dismissal was procedurally unfair, would the claimant have been dismissed in any event?
  - 2.5 Did the claimant unreasonably fail to follow the statutory ACAS Code of Practise on Disciplinary and Grievance Procedures?

- 2.6 Did the claimant contribute to their dismissal?
- 2.7 Whether the dismissal is fair or unfair the Tribunal will hear evidence of the following:
  - 2.7.1 Whether the job evaluation process followed correctly?
  - 2.7.2 Whether there was meaningful consultation regarding the existing job description?
  - 2.7.3 Whether there were any significant changes in the re-branding of the job description from Band 4 to Band 2?
  - 2.7.4 Whether the appeal procedure was followed?
  - 2.7.5 Whether it was the claimant's line manager who took the decision to dismiss her?
  - 2.7.6 Whether the claimant was accused of underperforming but at the time had work taken away from her?
  - 2.7.7 Whether the claimant's line manager refused to discuss flexibility around the working hours of the new administrators role as an alternative to making the claimant redundant?
3. On 10 May 2023 a deposit order requiring the claimant to pay £600 as a condition of being permitted to continue to advance the allegation of unfair dismissal was made. In a judgment sent to the parties on the 12 June Employment Judge Skehan, for reasons explained in paragraph 4 of the judgment, concluded that the claimant had little reasonable prospect of the Tribunal finding that the termination of her employment was outside the band of reasonable responses of a reasonable employer and dismissal unfair.
4. The claimant gave evidence in support of her own case, the respondent relied on the evidence of Rainer Buhler, Cheryl Muldoon, Holly Posselwhite, Lucy Leonard (nee Whitehead) and Melanie Kay. All produced witness statements which were taken as evidence in chief. I was also provided with a trial bundle containing 550 pages of documents. I made the following findings which I considered necessary to determine the issues before me.
5. The claimant worked for the respondent as the Administrative Assistant for the Bereavement Service from 20 June 2011 until she was made redundant on 30 November 2021.
6. The claimant's role was at a Band 4, the claimant was employed to work 20 hours per week. The claimant was provided, when she commenced her employment, with job description for her Band 4 post of Administrative Assistant. (p72)
7. In April 2019 Srinder Singh commenced employment as the Bereavement Care Lead, she was the claimant's line manager. Also in 2019 the claimant's contract of employment was varied as a result of a flexible working arrangement.
8. The claimant was on long term sick due stress and anxiety from April 2020

until January 2021. Whilst on sick leave, the claimant was sent an email by Srinder Singh to invite her to a presentation of a consultation proposal for the restructure of the Sobell House Bereavement Care and Voluntary Services admin and clerical staff. The proposed new structure, as it affected the claimant was to have one Specialty Team Administrator at Band 4 and a Specialty Administrative Assistant at Band 2.

9. The claimant's role would be removed in the proposed restructure. The claimant did not consider that her Band 4 Administrative Assistant role should be displaced, the respondent was intending to recruit a new administrative assistant at a lower band, placing the claimant at risk of being made redundant. The claimant did not consider that this was a "*true redundancy according to law*".
10. On 30 July 2020 the claimant had a meeting with Srinder Singh and Dawn Andrew from HR. During the consultation meeting whose purpose was to invite comments on the proposal for the restructure it was pointed out that the options considered were:
  - Option 1: Do nothing
  - Option 2: Change the pattern of working hours of the administrative staff to provide more cover and support during office hours.
  - Option 3: Increase the provision of administrative support from 45 hours to 51 hours per week and change the pattern of working hours of the administrative staff to provide more cover during office hours.
11. The claimant could not work within options 2 and 3 because she worked a second job in the afternoons for another NHS organisation.
12. The claimant enquired whether the new Band 4 post could be a job share, working in the mornings to fit in with her second job.
13. In a letter dated 3 August 2020 the claimant was informed that the consultation had come to an end and the claimant was invited to a presentation of the new configuration of the structure of administrative staff for Bereavement and Voluntary Services at Sobell House.
14. The claimant could not attend due to her health and on 6 August 2020 she was informed that the respondent was to proceed with Option 3 and that it was open to the claimant to express an interest in the new Band 4 role. On 13 August 2020 the claimant wrote to Srinder Singh to express an interest in the Band 4 role.
15. Around August 2020 the claimant informed the respondent that she was too unwell to engage in consultation and the consultation stopped until the claimant returned to work in January 2021.
16. The claimant was interested in the now role on the basis of a job share. There

is produced by the respondent a document (p291) which the claimant states shows that the respondent had no intention of allowing the claimant to work 20 hours in the new role as a job share.

17. The claimant returned to work, after her long sickness absence, on the 18 January 2021 and was placed to work in a temporary role of Assurance Administrative Assistant with the Assurance Team working from home.
18. The consultation about the restructure resumed when the claimant met with Dawn Andrew and Melanie Kay on 4 February 2021, the purpose of the meeting was to *“discuss the Sobell House Bereavement and Voluntary Services consultation... with the aim of concluding the consultation process.”*
19. At the meeting the claimant said that she would consider the Administrator role as a job share, and *“would consider working fewer hours than 20 hours per week (possibly 15)”*. The pros and cons of this option were discussed. The claimant was then told that if the job share option was not possible, and the claimant was unable to take on the Administrator role at 30 hours per week, she would be placed at risk. Melanie Kay told the claimant that she would discuss the possibility of the claimant working 15 hours on a job share with Srinder Singh.
20. Email correspondence between Melanie Kay and Dawn Andrew on 8 February 2021 shows that the respondent considered that this option, 15 hours as a jobs share, was not going to be *“a viable or sustainable option.”*
21. On 15 March 2021 the claimant attended a Teams meeting with Melanie Kay and Dawn Andrew. The claimant takes issue with the minutes that have been produced of that meeting where they state that the purpose of the meeting was to discuss the Band 4 role *“which was for 30 hours per week but had been offered as a job share for 15 hours per week which had previously been discussed on 4 February”*. The claimant points to the minutes of the 4 February meeting and the email correspondence between managers around 8 February to show that the claimant had not been offered a job share of 15 hours, in fact Dawn Andrew was well aware that the respondent was *“not going to offer the band 4 Administrator role to [the claimant] as a job share”*. (p304)
22. The minutes further record that the claimant did not wish to reduce her hours from 20 per week; that it was confirmed that as there were no other suitable roles within the consultation process the claimant would be placed at risk of redundancy and that the consultation process would be closed. *“The next step would be to arrange a formal meeting to place [the claimant] ‘at risk’ and ... a full explanation of the next steps would take place.”*
23. The claimant was invited to a formal meeting on Tuesday 6 April 2021. The email extending the invite contained inaccuracies in that it states that the claimant had previously expressed an interest in the Band 4 Specialty Administrator role for 30 hours per week, this was not correct the claimant had not. The email then goes on to state that the claimant had confirmed that she

did not want to be considered for the role or the job share option that had been offered: in fact at this stage there was no job share offered to the claimant.

24. On 1 April 2021 Melanie Kay wrote to the claimant cancelling the meeting scheduled on the 6 April and went on to say that she had *“been reflecting on the band 4 job share possibility option”*, and asked the claimant if she *“would be interested in doing 20 hours per week of the band 4 Specialty Team Administrator role”*. The proposed hours of work were set out for the claimant. These involved working 9am to 2pm, 4 days a week.
25. Although this option appears to meet the claimant’s needs the claimant states that in fact this was not possible for her because her second job involved the her working from 1:30pm, the effect of which was that the claimant needed to finish work at 1:00pm at the latest. The claimant points out that the respondent was well aware of this.
26. The claimant had not responded to the offer by 12 April and Dawn Andrew wrote to the claimant asking her to reply by the 13 April 2021, the claimant did not see this email and did not respond by the deadline.
27. On 22 April 2021 Melanie Kay told the claimant that they would be moving to the next stage of the process with the claimant being placed ‘at risk’ of redundancy and there would be a 30 day consultation period, the claimant was invited to a meeting on 6 May 2021 to *“talk through the consultation process, and how... to identify a suitable alternative role.”*
28. The meeting on 6 May 2021 was cancelled. The claimant attended a further meeting with Melanie Kay and Dawn Andrew on 18 May 2021 at the meeting the claimant’s temporary role in the Assurance Team was extended for a further period of three months. The claimant was told that the Specialty Team Administrator role was going to be advertised as the claimant had stated that the start and finish times made the role unsuitable for her. The claimant takes issue with the record of the meeting which refers to the claimant having been offered the role, the claimant says she was never actually offered the role.
29. On 19 May 2021 the claimant indicated a desire to bring a grievance against her manager.
30. The claimant was made aware of the role of SCAN Administrator by Dawn Andrew. The claimant points out that this was not a suitable role for her because she could not work from home in the role and the working hours for the role did not necessarily match the claimant’s requirements.
31. On 24 June 2021 the claimant had a meeting with Martyn Leja, in this meeting the claimant raised issues concerning the consultation process and also complaints about victimisation by Srinder Singh relating to a witness statement that had been given in respect of Employment Tribunal proceedings. Martyn Leja told the claimant that he would speak to Dawn Andrew about the consultation process. In respect of the complaint about Srinder Singh he stated that as the matter related to an on-going Employment Tribunal the

claimant could not submit a complaint to the Trust about it as the Employment Tribunal would deal with the matter.

32. The claimant contacted Melanie Kay and asked when the formal at risk meeting cancelled from the 6 May 2021 would take place. Melanie Kay wrongly told the claimant that the meeting on 18 May 2021 had been the rescheduled meeting of the 6 May 2021. Dawn Andrew subsequently corrected this and confirmed that the claimant had never had a formal meeting to place her at risk.
33. In further correspondence with Dawn Andrew the claimant was informed that the band 4 Specialty Team Administrator role remained available if the claimant wished to be slotted into the role. The working pattern on offer for the role however did not match the claimant's requirements and were different from the times that the claimant had been working up to this date.
34. On 6 August 2021 the claimant was invited to a meeting on the 19 August 2021, the purpose of the meeting was to *"open the consultation process and confirm that [the claimant's] role will be placed at risk of redundancy"*.
35. The claimant sent emails to Martyn Leja relating to her desire to raise grievances about the consultation process and Srinder Singh's statements in the Employment Tribunal statement. The claimant was eventually told by Martyn Leja that the Employment Tribunal statement could not be addressed as a grievance and that the consultation process had a mechanism for the claimant's issues about the consultation process to be dealt with.
36. The August 19 2021 meeting did not take place but on 21 September 2021 a meeting did take place at which the claimant was given notice of termination of her employment on the grounds of redundancy. (p405) The claimant's employment was to terminate on 30 November 2021.
37. The claimant was given an offer of employment as Dietetic Secretary / Administrator for a fixed term of 2 years. The claimant did not consider that this was a suitable role for her because it was a patient related role and was only for fixed term of 2 years.
38. On 5 October 2021 the claimant wrote to Rachel Stanfield seeking to make a grievance against Srinder Singh in *"relation to the Bereavement Care and Voluntary Services Admin and Clerical Restructuring Consultation which resulted in [the claimant's] role as Administrative Assistant being displaced"*. There was no response to this email until after the claimant sent an email chasing a response and eventually on 25 November 2021 the claimant was referred to link to the respondents grievance procedure and told *"You will need to complete the relevant appendix to submit your grievance."* On 30 November 2021 the claimant was told that the respondent did not consider that she had raised a grievance but had merely *"indicated that you wish to raise a grievance"*. The claimant was told that any grievance would be considered at the same time as *"any appeal"* against the termination of her employment, *"if an appeal is submitted."*

39. In a letter dated 24 November 2021 the respondent conceded that the Dietetic Secretary / Administrator role was not a suitable role for the claimant and offered to extend the notice period for termination of her employment for a further 5 weeks. The claimant declined. The claimant's employment came to an end on 30 November 2021.
40. On 13 December 2021 the claimant submitted an appeal and a grievance. The respondent's procedure provides that the appeal will usually be acknowledged within 7 calendar days of receipt. The appeal was not acknowledged until 14 January 2022 when the claimant was told that the appeal and the grievance would be heard together on 27 January 2022. The respondent's procedure provides that appeals will be heard as soon as possible and that appeals against dismissal should usually be heard within six weeks.
41. Under the respondent's procedure the presenting manager at the appeal is the person who made the original decision, that should have been Srinder Singh in the claimant's case. On the 20 January 2022 the claimant was provided with a presentation pack and informed that the presenting officer would be Holly Posselwhite.
42. Following the claimant's query about the absence of Srinder Singh at the appeal, the appeal hearing was postponed to allow the claimant the opportunity to provide written questions for Srinder Singh. The claimant wanted Srinder Singh to be present at the appeal however she was informed that the respondent considered that Srinder Singh was not well enough to attend the appeal. The appeal was rescheduled to take place on the 23 March 2022, however the claimant was not well enough to be able to participate in the appeal on that date. The claimant and the respondent did not reschedule the appeal and it has never taken place.

### Conclusions

43. Was the Claimant's dismissal for a potentially fair reason? The Respondent relies on redundancy.
- 43.1 Section 139(1) Employment Rights Act 1996 provides that an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is wholly or mainly attributable to (a) the fact that her employer has ceased or intends to cease (i) to carry on the business for the purposes of which the employee was employed by him, or (ii) to carry on that business in the place where the employee was so employed, or (b) the fact that the requirements of that business (i) for employees to carry out work of a particular kind, or (ii) for employees to carry out work of a particular kind in the place where the employee was employed by the employer, have ceased or diminished or are expected to cease or diminish.

- 43.2 Safeway Stores v Burrell [1997] ICR 523 explains that there are three stages to determining whether the dismissal was on the grounds of redundancy. (1) was the employee dismissed? If so, (2) had the requirements of the employer's business for employees to carry out work of a particular kind ceased or diminished, or were they expected to cease or diminish? If so, (3) was the dismissal of the employee caused wholly or mainly by the state of affairs identified at stage 2 above?
- 43.3 The claimant contends that there was no redundancy within the meaning of section 139. The claimant contends that in her cross examination of the respondent's witnesses they accepted that the work of a particular kind, the administrative duties she was employed to perform, are still being carried on by the respondent; they are still being performed in the same place, Sobell House.
- 43.4 The respondent contends that the claimant's post of Administrative Assistant was made redundant and that this was the reason for the claimant's dismissal on 30 November 2021.
- 43.5 In the alternative, the respondent pleads some other substantial reason for the claimant's dismissal, namely that the work required in the Bereavement Team overall had increased and the hours where cover was required had changed: the claimant was dismissed because the respondent reorganised and she refused to work the hours required in the new roles available to her, and redeployment was unsuccessful.
- 43.6 I have also been referred to the case of Hollister v National Farmers' Union [1979] ICR 542 and it is submitted that where there is a sound business reason for a reorganisation and the only sensible way to deal with it is to terminate the existing contracts offering the employee reasonable new ones and an employee refuses to accept the new agreement that is a substantial reason to justify her dismissal
- 43.7 The respondent carried out a reorganisation of the Bereavement Team so that instead of 2 Band 4 roles there was one Band 4 role and one Band 2 role. The claimant's role disappeared, and she was not able to work in the alternative roles that were available. The removal of her job in the reorganisation caused the claimant's role to be redundant, this was a redundancy situation because the respondent's need for a Band 4 Bereavement Administrative Assistant had ceased.
- 43.8 The evidence showed that the respondent's requirement for employees to carry out work outside opening hours of 9:00am and 4:30pm ceased. The requirement for administrator work at Band 4 not including line management responsibilities ceased. The new role



required that the Band 4 have line management responsibility of the Administrative Assistant.

43.9 The claimant was offered the Band 4 Administrator role in the new structure, the claimant refused this role because it was not offered on terms that the claimant could accept. The claimant was also offered the role of Dietetic Administrator but she also rejected this role because it was a client facing role and not one that she could do working from home.

43.10 My conclusion is that the claimant was dismissed because of redundancy.

44. Was the Claimant's dismissal within the range of reasonable responses of a reasonable employer?

44.1 The claimant points out that the aim of the restructure was to provide administrative support for the bereavement and voluntary services during the hours 9am to 4:30pm. The restructure was going to result in 50 hours of admin support with 20 hours for the Band 2 Administrative Assistant role and 30 hours for the Administrator role.

44.2 The claimant had a 'flexible working' arrangement that meant she worked 20 hours a week between 7:30am and 1:00pm 3 days a week and from 8:00am to 1:00pm one day a week and not working on Fridays. The claimant worked for another employer from 1:30pm.

44.3 The claimant contends that the respondent was acting unreasonably in that they initially refused to consider a job share; the respondent was not willing to be flexible around the hours that the claimant worked and take into account the fact that the claimant had another employment that commenced from 1:30pm.

44.4 The claimant considers that the job evaluation process undertaken by the respondent in her case was not followed correctly as the respondent used an incorrect job description for the evaluation of the claimant's job. The claimant says that there was no meaningful consultation in respect of her role. The claimant states that her line manager was given job objectives which involved considering the claimant's role, but the line manager never spoke with the claimant about her role or asked her for the correct job description, the claimant criticises her line manager's manager saying that they clearly did not know whether the line manager had carried out that part of the objectives set. From the claimant's point of view this was critical because it resulted in the Administrative Assistant role being rebanded at Band 2 rather than Band 4.

- 44.5 I do not consider that the claimant's criticisms of the respondent at points above are valid criticism of the respondent in all the circumstances of this case. The respondent was clear about the purpose of the review of the administration support for bereavement and voluntary services, this was clearly laid out in the consultation document. The claimant was given the opportunity to contribute to the consultation before the decision was made on the review.
- 44.6 The claimant had a flexible working arrangement that in effect clashed with what the respondent was trying to achieve which included ensuring that there was cover for the opening hours of the service from 9:00am to 4:30pm. However, in the various offers made to the claimant it was intended that the service needs were met and some adjustment was made to the respondents offers in order to try and achieve a position that met the respondent's requirement in respect of the service and the claimant's personal requirements. The offers changed and in my view the respondent did show flexibility by initially stating clearly that the job share option was not available then getting to a position where a job share option was available. There was also movement in respect of hours of work and working days in order to try and meet the claimant's needs. There is in my view nothing unreasonable in the various offers made which were not always exactly what the claimant wanted, but in my view there is no basis for suggesting any bad faith in the offers made. The offers were not made with a view to the claimant rejecting them, they were made with a view to the needs of the service being met and attempting to find a compromise that worked for the claimant also.
- 44.7 The claimant's criticisms of the new roles and the suggestion that there was a failure in the job evaluation process in my view is wrong. Even if the respondent's used a job description that was not the claimant's job description, my view is that they would have been entitled to do that if it met the objectives that they sought to achieve. The claimant's criticism in this regard in my view are not relevant.
45. Was the redundancy process followed by the Respondent fair and reasonable in all the circumstances?
- 45.1 The claimant states that the respondent failed to follow the correct procedure in dealing with her appeal. The claimant raised a grievance which among other things concerned the consultation that the respondent had undertaken in respect of the restructure. The claimant says that in deciding to deal with the claimant's appeal against the decision to dismiss her and the grievance together was not correct. The claimant points to the fact that she had to chase the respondent before she received an acknowledgement of the grievance. The claimant points out that the procedure on the appeal required the

manager who made the decision to dismiss to attend to present the management case, that in the claimant's case was Srinder Singh, however the claimant was informed that Srinder Singh was not going to attend the appeal. The claimant also objected to the fact that she was offered the option putting written questions to Srinder Singh stating that this was not fair to the claimant or Srinder. The claimant also complains that the time taken to give her a listing for her appeal was unreasonable, the claimant initially appealed on 13 December 2021, the first appeal hearing due to be on 14 January 2022 was postponed and the new hearing was not offered until 23 March 2022 (that hearing never took place).

- 45.2 The claimant says that the lack of flexibility in the offers made to her in respect of the new role was unreasonable. The claimant points out that the respondent in the offer for the new role failed to take into account the fact that the claimant had a flexible working arrangement. When the various offers of were made in respect of working hours the respondent always made an offer that the respondent knew could not be accommodated either because of her need to work in her other role from 1:30pm or because the claimant did not work on Fridays. The effect of this was to take away the flexible working arrangement that she had. The claimant states that the documents show that from an early stage the respondent had determined that there would be no offer of a job share to the claimant, and that when they did make the offer of a job share they did so in ways that they knew the claimant could not accept.
- 45.3 The claimant complains that the consultation was not fair it had no structure to it and *"that nobody really knew what they were doing"*. The consultations started and concluded on a number of occasions during 2020 and 2021. The claimant says that she was put at risk several times and this was not fair or correct and increased her stress levels. The offer to the claimant of the Dietetic Secretary / Administrator role was not an offer of a suitable alternative role. The claimant states also that the respondent never stated that they were creating a new role in the consultation.
- 45.4 The respondent replies that there were six consultation meetings between 30 July 2020 and 21 September 2021 and that if there was anything lacking in the consultation process it was because the claimant chose to pursue her *"gripes with Srinder Singh"* rather than engaging with the consultation process. The respondent says that the claimant is wrong in her contention that there was an unreasonable failure to consult with her in respect of the job description for the role into which she was recruited as the exercise that that had been undertaken was one where Srinder Singh was to *"sit down with a blank piece of paper"* and design job descriptions for new roles that meet the

needs of the service. The respondent says that the claimant was given a generous opportunity for her to come back with proposals. There was ample opportunity to explore the reorganisation and what might happen to her employment, it was the claimant who failed to make use of the opportunity to do so. The respondent denied that the claimant's complaint that the consultation kept stopping and starting is well founded.

- 45.5 The respondent contends that the decision to dismiss the claimant was a fair one. The respondent had reorganised and as a result the claimant's role disappeared, and she was placed in restricted competition for the new Band 4 Administrator role however the other person resigned and the role was ring fenced for the claimant from August 2020 until July 2021. The claimant was off work from April 2020 until January 2021 and when in August 2020 the claimant stated that she was too unwell to engage in consultation the consultation stopped. When the claimant returned to work in January 2021 the consultation resumed again. The claimant refused the role that had been ring fenced for her she also refused the Dietetic Secretary / Administrator role and in August 2021 the claimant was finally placed at risk of redundancy. The respondent points out that by October 2021 the claimant was stating to the respondent that she would not be able to work in a hospital or office environment (meaning that she would not have been able to return to her substantive post in any event). On 24 November 2021 the claimant was offered the opportunity to extend her notice period but refused. The claimant was dismissed by Rainer Buhler and she did not challenge the fairness of his actions.
- 45.6 In respect of the claimant's complaints about the appeal the respondent replies that the claimant points to the failure to acknowledge her appeal in 7 days; however, there is no hard and fast rule that it is acknowledged in 7 days the procedure refers to "usually" within 7 days and in any event the appeal was listed promptly thereafter. The respondent points out that the claimant's complaints about the fact that Srinder Singh was not at the appeal is of no effect when in fact there has been no appeal because of the claimant's ill health and that this was the reason for there being no appeal.
- 45.7 My conclusion on this case is that when one steps back and considers all the matters that occurred it is difficult to be critical of the way that the respondent acted. They were entitled to reorganise in order to ensure that the service needs were met. They offered the claimant the Band 4 role. The claimant refused the role and in any event it appears she would not have been able to do the role as she was needing to work from home. The claimant was offered other roles which she also could not do. The claimant was sent weekly job bulletins. The consultation period extend over a year much of which time the claimant

was unwell. The consultation stopped and started again when she could engage.

45.8 I am satisfied that there was no unfairness in the decision to dismiss. The claimant's position was such that she could not take up any of the roles offered, her personal circumstances made this impossible. The respondent in my view acted reasonably throughout. The claim for unfair dismissal is not well founded and is dismissed.

46. If I had found that the claimant was not dismissed because of redundancy I would have concluded that the claimant was dismissed for some other substantial reason and for essentially the same reasons would have found that the claimant's dismissal was not unfair.

#### Deposit

47. The claimant had, in her view, a clear and coherent argument about why her dismissal was unfair, she conducted the proceedings reasonably and complied fully with all the employment tribunal's directions and orders. Ultimately her case failed, despite her best efforts, for broadly the reasons identified by Judge Skehan when making the deposit order. However, in my view it would not be in the interests of justice to require the claimant to be refused the return of her deposit because there were points about which the claimant could rationally feel she had been badly treated by the respondent, such as the respondent's unwillingness to have regard to the claimant's personal circumstances which had recently been taken into account in making a flexible working contract change and were to be effectively disregarded in the wake of the reorganisation. The claimant's deposit should be returned to her.

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Employment Judge Gumbiti-Zimuto

Date: 5 June 2024

Sent to the parties on: 12 June 2024

For the Tribunals Office

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<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>