



Case Number: 2300492.2017

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EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Mr P Coutinho

and

Respondent

Virgin Media Ltd

Held at Ashford on 12 June 2017

Representation

Claimant:

Not present

Respondent:

Mr T Sheppard, Counsel

Employment Judge Kurrein

JUDGMENT

The Claimant's claims are not well founded and are dismissed.

REASONS

- 1 On 2 February 2017 the Claimant presented a claim alleging unfair dismissal, breach of contract in respect of notice pay and a failure to pay holiday pay in respect of accrued but untaken holiday.
- 2 On 13 March 2017 the Respondent presented a response in which it contested those claims, and asserted that the Claimant had been properly and lawfully dismissed for gross misconduct.
- 3 Directions for the conduct of these proceedings were given on 13 February 2017. On 7 June 2017 the Respondent wrote to the tribunal to complain that the Claimant had not given disclosure or exchanged witness statements and had failed to respond to enquiries in that regard.
- 4 The Claimant did not attend the Tribunal on the morning of the hearing and his landline and mobile phones were not answered. It was clear that he was aware of the date, time and place of the hearing: he made an application for a witness order on 7 April 2017 in which he set out those details. I also noted that on 15 May 2017 the Claimant had paid the hearing fee, in full, without seeking assistance.
- 5 The Respondent attended the hearing represented by Counsel, with two witnesses and two HR representatives. I had detailed witness statements from each of those witnesses and an extensive trial bundle, some might think too extensive, of over 300 pages.

- 6 In all the circumstances of the case I concluded it was in the interests of justice for the hearing to proceed in the absence of the Claimant. It started at 10:30 am.
- 7 I heard the evidence of Mr Panteli, Field Sales Manager and Ms Hancill, Retail Experience Manager, on behalf of the Respondent. Their evidence was, inevitably, unchallenged, and I accepted it.
- 8 On the basis of that evidence. I was satisfied on the balance of probabilities:–
- 8.1 The Respondent had carried out a reasonable investigation into the allegation raised by one of the Claimant's colleagues that the Claimant had assaulted him.
- 8.2 Mr Panteli had reasonable grounds to hold and in fact held an honest belief that the Claimant was guilty of an offence of assault.
- 8.3 In the circumstances of the case, particularly bearing in mind the specific provisions in that regard in the Respondent's Disciplinary Policy, the decision to summarily dismiss the Claimant was within the band of reasonable responses open to an employer in the position of this Respondent.
- 9 I therefore find that this dismissal was fair.
- 10 I was also satisfied to the requisite standard that the Claimant was guilty of gross misconduct and was not entitled to notice pay.
- 11 There was no evidence to support the claim for holiday pay.

Employment Judge Kurrein
12 June 2017