



Claim: Unfair dismissal and unpaid notice pay

[Fabio Pinto -vs- Tutela Jersey Ltd.](#)

Tutela Jersey Ltd.'s correct following of the probation procedure as written in the contract resulted in the claims being dismissed due to notice pay being paid in line with the contract.

Summary:

Fabio Pinto (claimant) was employed as a health care assistant on a zero-hour contract in February 2019 which was superseded by a permanent contract from 1 March 2019 with a 6-month probation.

The employer had communicated via email about extending probation by 4-months due to failure of 'successful completion' as a result of the claimant being on 4-months sick leave. Thus, the claimant was entitled to 1 weeks' notice pay following termination of employment in November.

The claimant did not reply to this email. In his Claim Form, the claimant stated he had passed probation and there had never been a meeting to discuss an extension.

Tribunal:

- The claimant confirmed receiving the email and raised this as an issue via a phone call with Mr Nunes to arrange a supervision to discuss. This was not followed up by the claimant.
- Mr Nunes accepted the phone call but denied discussing the probation. He was concerned when the claimant had not replied to the email so asked the line manager to follow it up.
- The line manager confirmed the claimant said he had followed up on the email but did not indicate any problem with it.

Outcome:

- The unfair dismissal claim was struck out in a Case Management Hearing in April 2020 because the Claimant has not been employed for long enough.
- The relevant contract terms including the variation to probation period were set out in the permanent March contract which had not been objected.
- The claimant had not successfully completed probation and needed to be extended due to the sensitive nature of the work. Thus, 1-weeks' notice pay was in line with the contract.
- The claimant worked for an additional two months without objecting the extension.

The claimant is not entitled to any further notice pay and his claim is dismissed.

Lessons Learnt: Effective communication and follow-up with employees is an essential part of probation review to ensure clear understanding between employer and employee. Contracts should also clearly state 'successful completion' of probation is required.

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