


Can an employee complain too much?

08 January 2025  Emily Armistead

In the case of **Alexis v Westminster Drug Project** [2024] EAT 188 the Employment Appeal Tribunal recently gave a judgment that employers may find helpful when dismissing an employee for the potentially fair reason of 'some other substantial reason' when they believe there is a breakdown in their relationship with the employee.

Ms Alexis, who has dyslexia, was employed as a Receptionist / Administrator by the charity which supports adults affected by drug and alcohol abuse. The charity started a restructuring and redundancy exercise which included Ms Alexis where it proposed to reduce the number of its Receptionists / Administrators. Selection was to be by interview. Ms Alexis was not afforded any additional time at her interview and was unsuccessful.

Ms Alexis raised a grievance including that she should have been given 24 hours' notice of the interview questions. The charity paused the redundancy exercise. The charity largely upheld the grievance (although it did not agree that 24 hours' notice of the interview questions should have been given) and offered to re-interview. Ms Alexis appealed and the appeal outcome, like the original outcome, was largely in her favour. However, Ms Alexis, continued to object and began sending multiple complaints to the charity's management.

The charity invited Ms Alexis to a meeting to consider, in the circumstances, the tenability of her continued employment. Subsequently, the charity concluded that Ms Alexis had no confidence in it as her employer and that the employment relationship had irretrievably broken down. The charity dismissed Ms Alexis with notice.

Ms Alexis brought an Employment Tribunal claim including a complaint of unfair dismissal. The charity relied upon 'some other substantial reason' as the fair reason for dismissal. The Employment Tribunal noted that the charity had given Ms Alexis an opportunity to put forward her arguments relating to the charity's proposed dismissal of her. It found that the dismissal was fair as Ms Alexis' actions: demonstrated that she would not accept any outcome which did not meet her unreasonable demands; showed that she would continue to challenge management decisions; and had held up the charity's restructuring process, all of which indicated that the relationship of mutual trust and confidence had broken down.

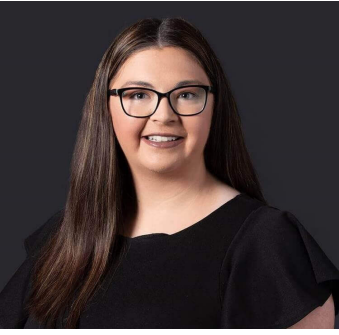
Ms Alexis appealed the judgment on the basis that the charity had not given sufficient consideration to her length of service or any alternative to dismissal. However, her appeal failed with the Employment Appeal Tribunal finding that neither were relevant considerations, as once trust and confidence has irretrievably broken down the only option is dismissal.

This case acts as an important reminder to employers of the availability of 'some other substantial reason' dismissals in circumstances where an employee unreasonably continues to challenge management decisions or indicates clearly that they cannot continue to work for the employer based on those decisions.

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