

JERSEY / JUDGMENT

Mr Joseph Donovan v GTWO Limited

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Jersey Employment and Discrimination Tribunal Applicant: Joseph Donovan Respondent: GTWO Limited Date: 28 November 2016 Before: Advocate C R Davies (sitting alone) Representation: Applicant: In Person Respondent Mr S Turrell (Director) THE TRIBUNAL'S JUDGMENT THE DECISION The Tribunal will not reinstate the Applicant's complaint of unfair dismissal, that complaint having been withdrawn by the Applicant on 6th June 2016. THE REASONS This was an unusual application on the part of Mr Donovan who wanted the Tribunal to reinstate claims for unfair dismissal and notice pay which he had started on 16th May 2016 and then formally withdrawn on 6th June 2016. The Applicant argued that he had withdrawn his case in the expectation that the Respondent would co-operate in his efforts to obtain a new job, and that this had not happened. The application to reinstate the proceedings was resisted by the Respondent. The parties provided me with their submissions in writing prior to this hearing, and both made submissions verbally at the hearing. It was explained to the parties that the sole purpose of the hearing was to decide whether the proceedings should be reinstated, and not to consider the substantive merits of the original case. I summarise below the relevant background to the application. The Applicant had been able to find new employment following his dismissal but he required a reference. He became aware that the Respondent had given him a poor reference, and that the prospective new employer required confirmation of the termination date of his employment; The Applicant understood that the Respondent would co-operate with the requests that had been made by his prospective employer if the tribunal claim was withdrawn. It transpired that the Respondent had not said that to the Applicant directly; the Applicant had been given this impression by the prospective new employer who was acting effectively as an informal go-between. It seems that the prospective new employer was worried that they might become embroiled in the dispute and even that they might be sued by the Respondent; The Applicant felt that he had to stop his Tribunal proceedings in order to secure new employment. He made the decision to withdraw the case; he felt that this decision was made under duress. However he accepted that he knew that his attempt to resolve matters in this way might fail and that he may ultimately not have a job. The Applicant took advice from JACS and a lawyer. He was given appropriate procedural advice by the Tribunal. Having taken a weekend to consider his position the Applicant withdrew his claim via a letter confirming that he had decided not to pursue his complaint and he requested confirmation that the complaint had been "cancelled". The Tribunal responded to say that the case was closed and that the Applicant would "not be able to bring this claim in again"; There was a dispute as to what the Respondent did and did not say to the prospective employer, but it would seem likely that something was lost in translation. The Respondent did not recall saying that the Applicant must withdraw his tribunal claim. The

situation had not been resolved following the withdrawal of the claim because the Respondent did want complete peace of mind that the Applicant would not bring future claims against them and they felt that the Applicant was declining to give them that comfort; whereas the Applicant felt that he was being asked to lie; Ultimately the Applicant did not secure employment with the prospective employer, but found new employment elsewhere. The Respondent only discovered this subsequently; Both parties felt aggrieved; both felt that they had handled the situation objectively and well and that the other party had handled the situation badly. I find as follows: I find that the Applicant was undoubtedly stressed and under pressure when he withdrew his claim from the Tribunal but he was not acting under duress. The Respondent had not contacted the Applicant to demand that the Applicant withdrew his case, and had not threatened him. The Applicant took advice and had time to consider what he was doing. He understood the consequences of his decision, and he knew there was a risk that the withdrawal of his claim may not resolve matters; I find that the Respondent did not misrepresent the situation to the Applicant. The Applicant was hopeful that his decision to withdraw the claim would lead to the outcome that he wanted, but he knew ultimately that might not be the case. The Respondent had not directly made any promise to the Applicant that they would give him a reference if he withdrew his tribunal claim; c. The Applicant was not acting under a mistake so serious as to enable me to reinstate the case. He clearly felt that his action in withdrawing the claim would help his position but it does not seem to me that he fundamentally misunderstood what he was doing; Conclusions The Applicant's case will not be reinstated, his claims having been withdrawn on 6th June 2016. Signed: Dated: Judgment and Reasons sent to the parties on

..... For the Tribunal
Office

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Prepared on 25 October 2026 · Esheria