

JERSEY / JUDGMENT

Samantha Olliver v RFS Jersey Limited

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IN THE JERSEY EMPLOYMENT AND DISCRIMINATION TRIBUNAL IN THE MATTER BETWEEN SAMANTHA OLLIVER CLAIMANT AND RFS JERSEY LIMITED RESPONDENT TRIBUNAL JUDGMENT Reference: [2026] TRE 39 Before: Mrs H Westmacott, deputy chair DECISION The Claimant does not have sufficient length of service to qualify for the right not to be unfairly dismissed and the claim for unfair dismissal is dismissed.

REASONS

Introduction

1. The Claimant commenced employment as managing director of the Respondent, a regulated trust and corporate services provider, on 13 January 2025.
2. On 29 January 2026, the Claimant brought a claim against the Respondent for unfair dismissal. The Respondent defends the claim, asserting that the dismissal was fair. In addition, the Respondent asserts the Tribunal does not have jurisdiction to hear the claim as the Claimant has insufficient service to bring a claim for unfair dismissal.
3. Article 61 of the Employment (Jersey) Law 2003 (the “Law”) gives employees the right not to be unfairly dismissed. However, Article 73 of the Law, together with Article 1 of the Employment (Qualifying Period) (Jersey) Order 2014, removes that right where the employee has not been continuously employed for at least 52 weeks, ending with the effective date of termination.
4. The Respondent asserts the effective date of termination of the Claimant’s employment (the “EDT”) was 31 December 2025, which would mean she had less than 52 weeks’ continuous service and would not qualify for the right not to be unfairly dismissed. However, the Claimant asserts the EDT was 3 February 2026, which would give her more than 52 weeks’ continuous service and the right not to be unfairly dismissed.
5. The purpose of this judgment is to determine the EDT, as a preliminary issue. This will then dictate whether the Claimant had sufficient continuous service to qualify for the right not to be unfairly dismissed and, therefore, whether the claim should be dismissed or should continue. Documents and Facts
6. The following written submissions, together with copies of the judgment referred to within them, were provided by the parties in relation to this issue:

- (1) The Claimant's written submissions (the "Claimant's First Submissions")
 - (2) Advocate Thomas' written submission dated 19 June 2026 (the "Respondent's First Submissions")
 - (3) Advocate Blackmore's written submissions dated 26 June 2026 (the "Claimant's Second Submissions")
 - (4) Advocate Thomas' written submission dated 1 July 2026 (the "Respondent's Second Submissions")
7. Some contemporaneous documents were also referenced in and attached to the submissions. I reviewed all the contemporaneous documents, but considered only the following when making my decision:
- (1) The Respondent's letter to the Claimant dated 14 November 2025 with the subject Termination of Employment (the "14 November Notice")
 - (2) The Respondent's letter to the Claimant dated 10 December 2025 with the subject Final Termination Arrangements (the "10 December Notice")
 - (3) The Respondent's letter to the Claimant dated 5 February 2026 with the subject Benefits in Kind (BIK) Statement 2026 (the "BIK Statement")
8. It is not in dispute that the Respondent made the following payments to the Claimant: (1) On 31 December 2025, an amount equivalent to pay for the remainder of the Claimant's notice period (2) On 15 January 2026, an amount equivalent to the Claimant's medical insurance premium
9. The parties agreed that a decision could be made on this issue on the papers and that no witness evidence was required.

Submissions

10. At the case management hearing on 25 June 2026, Advocate Blackmore said she did not seek to rely on the Claimant's First Submissions. Instead, she gave oral submissions on behalf of the Claimant and subsequently set them out in writing in the Claimant's Second Submissions. Accordingly, I understand the submissions on the issues in dispute that the Claimant now seeks to rely on are, in summary: (1) The EDT was 3 February 2026 as this date was expressly stated in the 14 November Notice. (2) The 10 December Notice did not clearly and unambiguously change the EDT to 31 December 2025. (3) The Respondent's conduct following 31 December 2026 confirmed the ambiguity.
11. The Respondent's Second Submissions are said to build on the Respondent's First Submissions. Reading both documents together, I understand the Respondent's submission on the issues in dispute are, in summary: (1) The 10 December Notice clearly changed the EDT from 3 February 2026 to 31 December 2025. (2) The Claimant's subsequent correspondence confirms she understood this. (3) The Claimant's claim has been "reformulated" to include the ambiguity argument.
12. Article 63 of the Law sets out the meaning of effective date of termination. There seems to be no dispute that, in accordance with Article 63, if the above submissions of the

Claimant are correct, the EDT would be 3 February 2026 and, if the above submissions of the Respondent are correct, the EDT would be 31 December 2025. I agree in both instances and my decision on this issue does not turn on the construction of Article 63. Relevant Considerations 13. The specific question for me to address is, therefore, whether the 10 December Notice brought the EDT forward from 3 February 2026 to 31 December 2025. 14. While this tribunal is not bound to follow earlier judgments of other tribunals in Jersey or the UK, such judgments provide helpful guidance, and the parties' submissions include reference to sections from a number of judgments which I consider to be useful in this case (at paragraphs 4.5 to 4.14 of the Respondent's First Submissions, 12 to 18 of the Claimant's Second Submissions and 3.2 of the Respondent's Second Submissions). 15. From these cases, I view the following points as relevant when considering whether the 10 December Notice brought the EDT forward from 3 February 2026 to 31 December 2025: (1) While it may not be possible to unilaterally withdraw a notice of dismissal to continue the employment, it is, in principle, possible to unilaterally bring forward the EDT by giving a second shorter notice. (2) To do so, the second notice must clearly communicate that the employment is terminating with effect on an earlier date, which is identifiable and unambiguous. (3) Whether the notice does this should be viewed objectively by the tribunal, but in the context of the circumstances and matters known to the parties at the time. (4) Any ambiguity in the notice should be construed in favour of the Claimant. Termination Notices 16. I have carefully considered in full the text of both the 14 November and 10 December Notices. I have taken an objective view, but in the context of a managing director of a regulated trust and corporate services provider and bearing in mind matters known to the Claimant at the time the Notices were issued. 17. Having done so, I find that the 10 December Notice is sufficiently clear and unambiguous as to bring the EDT forward to 31 December 2025. While I considered the full text of both Notices, I do not consider it to be necessary to set it all out here, but I now set out the wording from the 10 December Notice which clearly communicates the EDT is being brought forward. "Notice Pay · Your contractual entitlement is 12 weeks' notice with garden leave until 3 February

2026. However, your Termination Date will be brought forward to 31 December 2025 and you will receive a payment in lieu of notice (PILON) for the remaining four weeks and four days. This will be paid on 31 December 2025 and a separate pay slip will follow. You are free to commence alternative employment from 1 January 2026. Until 31 December 2025 you will remain on Garden Leave, and any accrued holiday entitlement will be deemed to have been taken during your Garden Leave." 18. Not only does this Notice state that the "Termination Date" will be "brought forward" to a specified date, but it also explicitly states that the Claimant can commence alternative employment from the day following the specified termination date. 19. When considering the clarity of the 10 December Notice, I took into account the fact that the Claimant was initially told in the 14 November Notice that her employment would end on a later date. 20. In addition, I had particular regard to the four quotes which the Claimant's Second Submissions, at paragraph 23, state demonstrate conflicting propositions in the 10 December Notice. I have set out below why

they do not demonstrate a sufficient conflict to override the clear termination date set out in the section of the Notice quoted above. (1) The first quote is that the Claimant's employment was "not continuing". The full sentence in the 10 December Notice reads "Although your employment with RFS is not continuing, we wish you well for the future." Reading of the full sentence in the context of the full text of both Notices, this would objectively be understood as a reference to the employment "not continuing" in the future, rather than at the date of the notice. It does not, therefore, conflict with a future termination date being set. (2) The second quote is that payments were "not contractually due as your employment has ended" [emphasis added by the Claimant]. Reading this quote in the context of the full text of both Notices, the words "has ended" would objectively be understood as a drafting error. At no stage has either party asserted that there was any consideration that the employment had ended by 10 December 2025. The Claimant has not asserted there was anything within her knowledge at the time, other than this error, which could have made an objective reader think her employment had already ended. This error does not demonstrate a sufficient lack of clarity or ambiguity to override the clear termination date set out later in the 10 December Notice. (3) The final two quotes make up the first two sentences of the section of the 10 December Notice which is set out in full above. The Claimant's Second Submissions omit the word "However", which falls between the two quotes. An objective reading of those quotes in context, including the word "However" between them, does not demonstrate any conflict. Conduct Following Notice 21. While things that happened after the 10 December Notice was issued may indicate what the parties knew or understood at the time the Notice was issued, they will not impact upon the clarity or ambiguity of the Notice or its effect. The Claimant accepts this in paragraph 37 of Claimant's Second Submissions where it is stated: "The central point is not that subsequent conduct can rewrite an otherwise clear termination notice but that the 10 December Notice was not clear in the first place, and the Respondent's later conduct confirms the objective ambiguity and that demonstrates the continuing practical operation of the original 3 February 2026 date." 22. I, therefore, understand the Claimant's submission to be that the Respondent paying the Claimant for benefits in kind and sending her the BIK Statement demonstrating those benefits in kind related to a period following 31 December 2025, "confirms the objective ambiguity" of the 10 December Notice. The Respondent on the other hand asserts "the payment of the relevant premium was an error (a failure to cancel a standing order)". 23. No evidence has been put forward by the Respondent on this point but, even disregarding the Respondent's assertion, I disagree with the Claimant's submission. While the BIK Statement was signed by the same individual as the 10 December Notice, that fact alone does not establish that the Statement or payment reflected any contemporaneous interpretation of the Notice. It, therefore, does not undermine the clear termination date set out in the 10 December Notice.

Conclusion

24. Accordingly, I find that the EDT was 31 December 2025, the Claimant did not have 52 weeks continuous employment with the Respondent and does not qualify for the right not to be unfairly dismissed. The claim for unfair dismissal is, therefore, dismissed. 25. It may be helpful to note that the right not to be unfairly dismissed is a statutory right, which the Law specifies an employee only gains after completing 52 weeks of continuous employment. It is not an automatic right that applies from the first day of employment. If an employer dismisses an employee by giving notice that expires before the end of 52 weeks, or dismisses them without giving the required minimum statutory notice, which (had it been given) would also have ended before the end of 52 weeks, the employee will not acquire the right. 26. In this case, while the Respondent initially dismissed the Claimant giving contractual notice which expired after 52 weeks, it later decided to reduce the contractual notice period (the required statutory notice was still given), which had the effect of terminating the Claimant's employment before 52 weeks of continuous employment. The Claimant argued that the later notice was not sufficiently clear to take effect, but I am not persuaded by this argument. 27. Article 63(2) of the Law requires the minimum statutory notice (set out in Article 56 of the Law) to be taken into account when determining whether an employee has sufficient service to qualify for the right not to be unfairly dismissed, consequently prohibiting the minimum statutory notice from being reduced to prevent qualification. However, there is no corresponding restriction on reduction of contractual notice that exceeds the statutory minimum. 28. Before concluding, one clarification should be mentioned. In certain specific circumstances, the right not to be unfairly dismissed is automatic and applies from the first day of employment. Those situations are referred to under Articles 55U and 65 to 70A of the Law. The Claimant has not submitted that any of those provisions apply in this case. Mrs H Westmacott, Deputy Chairman Sent to the parties on: 9 July 2026

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Prepared on 22 October 2026 · Esheria