

An employee dismissed for lack of appropriate right to work documents should have been given a right of appeal

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The Employment Appeal Tribunal has held that an employee who was dismissed for failing to provide evidence of his right to work in the UK after his original right to work came to an end should have been given the right to appeal against his dismissal.

The facts of the case concerned Mr Afzal, who had been employed by Domino's Pizza since 2009. Mr Afzal's time-limited right to work in the UK was due to expire and he was required to make an application for a right to permanent residence before 12th August 2016. Mr Afzal made his application in time and sent his employer an email attaching evidence of his right to work. However, Domino's was unable to open the attachment. Concerned about the risk of continuing to employ Mr Afzal, Domino's dismissed him on 12th August 2016 without any right of appeal.

When Mr Afzal was able to provide evidence of his right to work in the UK, he was given the opportunity to be re-engaged as a new starter (although on inferior terms). He therefore claimed unfair dismissal.

The Employment Tribunal held that refusing Mr Afzal the right to appeal did not make his dismissal unfair, as Domino's had reasonable grounds to believe that the Claimant had failed to make a valid application. The ET therefore held that Mr Afzal had "nothing to appeal against."

Mr Afzal appealed to the Employment Appeal Tribunal, who disagreed with the ET's decision. Mr Afzal had made his application in time. An appeal would have enabled the employer to carry out checks to satisfy themselves that the application had been made in time, and therefore avoid an unnecessary dismissal.

This case therefore highlights the invaluable nature of appeals processes in circumstances such as these and the importance of employers implementing fair procedures when the need to dismiss employees does arise.

Afzal v East London Pizza Ltd t/a Dominos Pizza UKEAT/0265/17

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