

Employee working remotely from Australia protected against unfair dismissal in English courts

written by BDBF

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The Employment Appeals Tribunal has held that an employee of a British company working remotely from Australia for personal reasons could bring a claim in the UK for victimisation for whistleblowing and unfair dismissal.

Ms Lodge was employed as Head of Finance for a not-for-profit company based in London. A few months later, Ms Lodge moved to Australia as her mother was unwell. She continued to work remotely via a Virtual Private Network until June 2013, when she resigned and brought a claim for unfair dismissal and victimisation for whistleblowing in the employment tribunal.

The EAT ruled that the tribunal could hear Ms Lodge's claims. Whilst she did not fall within the category of "expatriate employee", as she had left the UK of her own volition, the tribunal took into account the fact that all of the work undertaken by Ms Lodge was for the benefit of the Company based in London. Whilst she was not a "physical employee" in the London office, she was a "virtual employee", and Ms Lodge had also previously brought a grievance which was dealt with in London under the terms of the employer's staff handbook, therefore her situation was not significantly different to that of an employee posted to work abroad. The tribunal was also swayed by the fact that Ms Lodge's employer did not dispute the contention that she had no right to bring a claim in Australia.

As technological advances enable employees to work remotely with ease, including overseas, the case is a warning to employers that certain claims can be brought before English courts, even where the employee is working remotely.

Lodge v Dignity & Choice in Dying and another UKEAT/0252/14

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