

# More good news for Employers about redundancy...

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In *Malekout v Ahmed and others (t/a The Medical Centre)* the Tribunal was satisfied with an employer's decision to dismiss an employee for redundancy despite the fact the employer had recruited his replacement months before the dismissal.

Mr Malekout was employed as a Practice Manager at a medical

practice for 14 years. In April 2008, Mr Malekout informed his employer that he had been offered another job and wanted to discuss his employment. The practice hired a second practice manager, Mr Kader, on a short term basis to ensure it was not left in a difficult position should Mr Malekout leave. Mr Malekout subsequently decided not to leave the practice but in the interim period much of his work was passed to Mr Kader and various shortcomings in Mr Malekout's performance came to light. Ultimately, the practice decided that it only needed one practice manager and dismissed Mr Malekout by reason of redundancy. Mr Malekout claimed unfair dismissal.

The Tribunal found that there was a genuine redundancy situation because at the time of the dismissal, the practice had two practice managers and only needed one, but there was no genuine consultation so the dismissal was unfair. However, they also decided that Mr Kader's shortcomings would have been exposed at some stage and his dismissal was therefore inevitable. As a result his compensation was reduced by 100%. The Employment Appeal Tribunal upheld this decision.

On the facts, it is difficult to avoid the conclusion that the employer manufactured a redundancy process in order to dismiss an under-performing employee. However, once again, it is clear that Tribunals are not keen to look behind a redundancy situation.

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