

## EAT Case – Has there been a dismissal?

In the recent Employment Appeal Tribunal (**EAT**) case of *Sandle v Adecco*, it was held that in order to prove a dismissal had been made an employer's unequivocal intention to dismiss must be communicated to the employee.

In this case, Miss Sandle was an agency worker employed by Adecco. When Miss Sandle's assignment working at another company came to an end, Adecco failed to take any proactive steps to find her further work and instead, assumed that she was not interested in further agency work. This assumption was fuelled in part by Miss Sandle's failure to contact the agency for further work. Miss Sandle subsequently brought a claim of unfair dismissal against the agency.

The EAT held that in the absence of any communication of dismissal by the employer and no resignation by the employee, there was no dismissal, nor could one be implied by the inaction of the employer (or the employee). The employment relationship was, therefore, still continuing when the employee brought her claim. As she could not prove she had been dismissed her claim for unfair dismissal failed.

The employer's unequivocal intention to dismiss had to be communicated to the employee.

### Comment

Whilst this case concerns an agency worker/agency relationship, it reaffirms the point that all employers must communicate a dismissal to an employee in clear and unambiguous terms, so that it is clear to both parties that the employment relationship has been brought to an end. Similarly, where an employee resigns it is good practice for them to put their resignation in writing and for an employer to confirm their acceptance of a resignation in writing as soon as possible after it has been received.

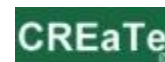
If you would like more information on the above or any related matter, please contact a member of Rooks Rider Solicitors' Employment team.



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