

Employment Law: Unfair Dismissal – Constructive Dismissal – ‘Last Straw’

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The case of *Bell v The Spirit Group Ltd* [2005] concerned a claim for unfair and constructive dismissal. The employment tribunal held that a series of acts, by the employer, cumulatively amounted to repudiation of the employee’s contract of employment. The employee was a manager of a national chain of pubs and restaurants. He brought a complaint of unfair constructive dismissal against his employer in the employment tribunal on the grounds of failure to support him throughout a period of a year during his career. He alleged that: he had been harassed by the senior managers regarding changes to his and his wife’s single contracts to a lower-paid joint contract; he had been bullied and his grievance initially ignored; his grievance had been partially upheld but the bullying had continued; the employer’s conduct amounted to a fundamental breach of his contract of employment – the implied term of mutual trust and confidence (the cause of his resignation); his dismissal had been unfair in all the circumstances. The tribunal found that, in view of the cumulative effect of the course of conduct by the employer, there had been a fundamental breach of the implied term of mutual trust and confidence in the employee’s contract of employment, and it was that breach that had been the effective cause of the employee’s resignation. The employee’s claim of unfair constructive dismissal was upheld. The employer appealed to the Employment Appeal Tribunal (EAT) against that decision. The employer’s appeal was dismissed. The EAT found that: -the test for constructive dismissal was whether the employer’s conduct amounted to a repudiatory breach of the employee’s contract of employment in relation to the implied term of mutual trust and confidence;



a relatively minor act might be sufficient to entitle the employee to resign if it was the last straw in a series of incidents; in this case, nothing had been done to stop the chain of causation; the employee had continually complained about the lack of support, and the tribunal could not be criticised as a result of its conclusions.