

Employment Tribunal - London South

Case No: 2304383/2001 Crofts v Veta Ltd

Before: Mrs EJ Adams, Mrs V Davidson, Mr RJ Wood

Date: 25/26 July 2006 Court 9

Veta had already conceded:

1. Unfair Dismissal
2. Failure to provide written reasons

Contested Issues:

3. Breach of Contract
4. Reinstatement Order

Cross Examination of Mr Ron Davies, prior Manager Basing Companies (Compilation of Observed extracts)

Q Is it correct that you never expected to be judged under UK Law?

A Yes

Q I want to focus on some of the aspects of the CoS D&GP. Under General Principles it mentions the principles of natural justice and common sense should be followed. Did those standards not apply?

A The Company decided they didn't apply

Q Did you take the view that these principles went out of the window?

A Circumstances, events occurred that CX decided they didn't apply in these circumstances but normally apply to Officers otherwise

Q I don't mean the Company, what about you?

A I applied the instructions given to me by the Company. We terminated 49 Officers' employment.

Q Were you under instruction that the D&GP didn't apply?

A I followed instructions. I was instructed not to follow the D&GP

Q Who gave you those instructions?

A The management of CPA

Q Who in management?

A Nobody in particular. It was specified in the review meeting

Q You mentioned the dismissals were not deemed to be disciplinary dismissals

A The terminations were to be carried out iaw Para 34.3 of {Veta}CoS. That's the premise the Company were applying.

Q Did you think it might be Disciplinary?

A No I did not.

Q Looking at the D&GP, there are different levels of Disciplinary action leading up to dismissal. In Para 8.5 b) "*dismissal after appropriate notice*"; In c), *not normally dismissed for the first offence* e.g. gross misconduct. And then examples of gross misconduct e.g. viii) *conduct considered given by the Company to be prejudicial to its interests*. How did these apply to Mr Crofts?

A Statements in D&GP were considered not applicable. Didn't need to consider D&GP.

Q I'm asking a factual question. You were judging Mr Crofts to be guilty of conduct prejudicial to the Company's best interests.

A Not acting in the Company's best interests

Q Isn't that prejudicial?

A Not sure I know how to answer that question. Reasons given are not in D&GP and no need to refer. My interpretation is they didn't refer.

Q To be clear, you said "*Not acting in the Company's best interests*".

A That's what I said.

Q All this resulted from Industrial Action by the union?

A In my statement, as a result of industrial action.

Q So if there had been no Industrial Action then none of this would have happened?

A If everything in CX was perfect there would be no need for a review team

Q So the Review Team was convened as a consequence of industrial action?

A Yes indeed

Q Who's Mr. Tyler?

A At the time of the review a Director of CPA. He had the role of the spokesman of CPA

Q You have described Mr Crofts as prickly and difficult

A That's true

Q You mention you had 1 or 2 heated discussions with him, remonstrating with him to show more consideration for other members of staff. Do you recall these occasions?

A I recall some occasions, I was contacted by staff, Mr Crofts was over-zealous. I saw Mr Crofts later and had a discussion on what went wrong with a view to resolving the matter. It was not successful.

Q You did not regard any of these matters of great consequence?

A I was concerned and I had to attempt to resolve.

Q None of these incidents received any formal process?

A D&GP - no.

- Q Did you make any record, note or correspondence?
A I haven't written to Mr Crofts. No I didn't. Verbal exchanges. Hope to resolve the issues. Unfortunate.
- Q So there was no correspondence - not even a note on his file in case of repetition?
A True
- Q We know there were 2 incidents recorded on file. [193 last para] "no further action will be taken. D&G will be considered in the event of repetition" Did you see that?
A That may be my signature. I probably would have seen it.
- Q Any subsequent reoccurrence later than Nov 2000?
A The incidents I had with Mr Crofts were not singularly of great importance. My memory cannot say the dates.
- Q [194] culminated with the decision at [200] "matter considered to be closed". These 2 incidents are the only 2 adverse comments on Mr Crofts' file?
A True
- Q By contrast, there are several letters of commendation - 8 or 9?
A True. The letters shown in the bundle were issued to all pilots whose lives were disrupted. They were generally issued for flying aeroplanes and resuming schedules, for going the extra mile.
- Q Your para 39 "Personal and training files were kept on all members of aircrew". We have the personal file in the bundle. It's right that his training file would have further commendations on flying performance etc?
A I don't think that's the case. Not normally the place of letters of commendation. They refer to operating standards. I would not normally refer to them.
- Q Are you aware Mr Reynolds protested his dismissal?
A Not aware.
- Q Did you know that Mr Keddie, Reynolds and Dyball all protested his dismissal?
A I have been told that's what happened.
- Q The Review Team. Who was responsible for initiating?
A I don't know
- Q Who was the senior person?
A The DFO - Capt Barley
- Q Had he received instructions as to what should happen i.e. the D&GP?
A Yes
- Q Was the whole team under that instruction?
A I assume yes
- Q Nobody but you from CX Freighters on that team?
A I can't remember the names. There were 20. I would have been surprised if they weren't. My memory fails me.

Q You state that there was a comprehensive review of the employment histories of each aircrew officer. Was it just CPA and Veta?
A It was all pilots, not just CPA and Veta.

Q Presumably you had all personnel and training files?
A We had information drawn from those 2 documents. The files were available.

Q Were files on the desk?
A Not on the desk as there were 1700 pilots employed by the Group. The procedure was that each individual name was considered from the Aircrew Seniority List. Where there was concern we referred to the document drawn from the files.

Q All this was done over 2 days?
A Yes

Q Not much time for each individual
A They were long days

Q Referring to the [document in the bundle] what's this Top 60?
A I don't recall this document at the time. We used [331]

Q Therefore the [313-330] reference with the date 22 Nov 2004, this is not the correct document?
A We used [331 onwards]. I assume the other document was available.

Q Was [313] produced later?
A I can't help.

Q So the document you referred to in the Review Team is [331]
A At the first review, yes
(table crew control assistants not helpful)

Q So Mr Crofts is on [page 345]. He has a clean bill of health
A Yes

Q Not a blemish.
A Afraid the matrix was used when there was no cross. It was ranked by the total number of crosses. It didn't take into account what I have experienced.

Q 1700 people reviewed. If one assume 10 hours per day that's still <1 minute per person.
A Even if the maths are correct, we went through the names. If there was a comment then discussion. No comment = no discussion.

Q It seems the only comment was from you.
A I mentioned Mr Crofts' behaviour and suggested he should be considered. The review team would be able to draw down info about commendations.

Q There was no-one else from Cathay Freighters?
A I can't confirm or deny.

Q This was a comprehensive review?
A Yes

Q Was it only union members?
A Every single pilot was reviewed. I had no way of knowing who was a union member.

Q CX knew who were union members?
A The airline did not know who were HKAOA members. Either an individual declared himself or admin the AOA dues were deducted.

Q Who produced the matrix?
A Flight Operations prior to the review

Q In the ordinary way, letter of reprimand?
A Not a habit to record on P File. The environment we administered our pilots was in a Hong Kong vein. The operation of the aeroplane was more critical.

Q On any view, you casted aspertions on Mr Crofts' conduct at the Review.
A Yes. The occasions concerned ground staff working for CPA. I didn't bring specifics onto his file.

Q At the Review, was anybody interested in specifics?
A I suggested he should be considered for termination as not acting in CX's best interests.

Q Who would have known him?
A Management pilots

Q Who?
A I don't know if those there otherwise voice out.

Q In your Para 41 you say that there was no dissent from anyone else in the room some of whom would have known Mr Crofts. Who?
A I don't have a list

Q You don't have a clue if anyone knew him
A There should have been someone

Q Were there documents, notes or minutes that we could refer to?
A Not that I'm aware of

Q 1700 names - how did anyone remember? You said it was a long Day 1 and you finished after another long day.
A Captain Barley chaired the meeting and confirmed the recommendations.

Q Nobody taking any notes?
A Not that I can recollect

Q The intention was to target members of the union?
A Review of all CX pilots. I didn't know the union members.

Q The ASL pilots were not subject to review?
A No

Q Are ASL pilots union members?
A Don't know

Q Why were ASL pilots excluded?
A Don't know

Q Were all those pilots terminated union members?
A I don't know although I believe one was not

Q Was Mr Crofts on leave from the announcement of industrial action until his dismissal?

A Don't know. I cannot remember.

Q You say that Seniority is very important.

A In CX, yes

Q The dismissal of a pilot with some seniority has implications

A Yes

Q The theme of CX publicity at the time was to castigate those terminated

A There was a lot of publicity on both sides.

Q The CX publicity would not help

A The press statements of CX were to explain rather than to victimise

Q It did not help, they were castigated as causing trouble.

A The publicity was not specific, the identities were not known

(much loud merriment from public)

Q Oh come on, Mr Davies, are you seriously suggesting that Singapore Airlines does not know?

A Most certainly.