

Giving Notice to Leave a Job May Not be a Resignation

A recent case has highlighted the pitfalls regarding notice received from an employee and shown that giving notice does not always mean an employee has resigned.

In the case of East Kent Hospitals University NHS Foundation Trust v Levy it was found that Mrs Levy had been unfairly dismissed when an internal job offer was withdrawn after she had both accepted the offer and given one month's written notice to her current manager.

The Tribunal (and Appeal) found that the purpose of the employee's notice was to confirm she was leaving her current department to transfer internally to her new role. However, when the new role was withdrawn, Mrs Levy tried to retract her notice, but this was declined, and her manager wrote to her to confirm the date of termination.

Mrs Levy brought a claim of unfair dismissal. The employer argued that Mrs Levy's letter was clearly a resignation.

The tribunal found that to a reasonable observer, Mrs Levy was not terminating her employment, instead she was informing her manager that she was accepting an internal job offer to transfer to another department.

What are the key learning points from this case?

When written notice or a resignation is received you should apply the following principles to avoid costly misunderstandings with your employee:

- Understand why the employee is resigning
- Check the notice they are giving
- Clarify when the employment will end
- Confirm your acceptance or any resignation in writing and state the final date of employment

Source: <https://www.personneltoday.com/hr/giving-notice-to-leave-a-job-is-not-always-a-letter-of-resignation-tribunal-confirms/>

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