Case No: 2500201/2017

EMPLOYMENT TRIBUNALS

Claimant: **Mr I Moore**

Respondent: **Wm Morrison Supermarkets Plc**

Heard at: **North Shields** **On: 4 July 2017**

Before: **Employment Judge Johnson (sitting alone)**

Representation:

For the Claimant: **Ms L Hesse (Union Representative)**
For the Respondent: **Mr T Adkin of Counsel**

REASONS

1 The claimant in this case was represented by his trade union representative, Ms Hesse. Ms Hesse called the claimant to give evidence. The respondent was represented by Mr Adkin of counsel, who called to give evidence Mr Steven Wilkinson (Duty Manager) and Mr Keith Nicholson (Store Manager). The claimant and both witnesses have prepared formal, typed witness statements. Those were taken "as read" by the Tribunal, subject to cross-examination and questions from the Tribunal. There was an agreed bundle of documents marked R1.

2 The claimant brought a single complaint of unfair dismissal. The respondent maintains that the claimant was dismissed for reasons relating to his conduct and that the dismissal was fair in all the circumstances. The issues to be decided by the Tribunal were identified as follows:-

(a) what was the respondent's reason for dismissing the claimant;

(b) did the respondent genuinely believe that the claimant had committed an act of misconduct;

(c) were there reasonable grounds for that belief;

(d) had the respondent carried out a fair and reasonable investigation;

(e) did the respondent follow a fair procedure before dismissing the claimant;

(f) did the respondent's decision to dismiss the claimant fall within the range of reasonable responses;

(g) if the dismissal was unfair in any way, to what extent (if any) did the claimant contribute towards his dismissal by his own conduct?

3 Having heard the evidence of the claimant and the two witnesses for the respondent, having examined the documents to which it was referred and having careful considered the closing submissions of the representatives, the Tribunal made the following findings of fact on a balance of probabilities:-

3.1 The respondent is a national supermarket chain, with a large number of stores throughout the country, employing thousands of people and having a dedicated HR Department.

3.2 The claimant was employed by the respondent from June 2008 until he was dismissed on 10 October 2016. The claimant was employed as a Sales Assistant, working 30 hours per week at the Doxford Park store in Sunderland. With effect from January 2011, the claimant worked a nightshift as a "Fresh Food Night Assistant".

3.3 At pages 127-128 in the bundle is a copy of the respondent's disciplinary policy. It specifies that for an offence of "gross misconduct" summary dismissal will be the sanction. At pages 33-34 is a copy of the respondent's smoking policy. The relevant parts state:-

- We comply with current legislation and necessary health, safety and hygiene standards and requirements. We recognise that it is against the law to smoke in virtually all enclosed public places, workplaces and public and work vehicles.

- Smoking is not permitted inside Morrison's premises, including our goods vehicles, pool cars and company cars.

- For those colleagues who do choose to smoke, we provide designated outdoor smoking areas at the majority of our locations for use during agreed breaks.

- As the current health effects of the electronic cigarette (or equivalent) on the individual or those who may inhale the vapour are unclear, we do not permit colleagues, agency workers, contractors, customers or visitors to use them on our premises except in the designated smoking areas. By simulating smoking and omitting a vapour they may offend other colleagues and affect the professional image we wish to present. In addition, the health effects of the vapour are currently unknown.

- We will investigate any reported breach of this policy and

consider any breach, including but not limited to smoking outside any designated areas, to be gross misconduct.

3.4 At pages 38-106 of the bundle is a copy of the respondent's "retail handbook". At page 84 under the heading "Smoking", it states:-

> "We want all colleagues, contractors and visitors to enjoy a smoke free environment benefiting health, hygiene and reducing the fire risk. Smoking in any other areas than the designated smoking areas is a disciplinary offence which, following investigation, may result in your dismissal. For security reasons, we keep our stores securely locked at night, protecting both our colleagues and our stock from risk. This means we are not able to allow retail colleagues who work between the hours of 11:00pm to 6:00am access to the designated smoking areas."

3.5 At page 129 in the bundle (dated July 2012) is a document headed "Smoking Policy Update". This is a document issued by the respondent's HR Department, although to whom it was distributed was somewhat unclear. The Tribunal found it likely that this update was provided to those employees of the respondent who had some form of supervisory role within the various stores. The relevant extracts state:-

> "Our smoking policy was introduced in 2007 in conjunction with the Health Act 2006 and the ban on smoking in public places taking effect in the UK, Scotland and Wales. As this legislation was new, the policy was necessarily firm and focused on compliance. We have also had to address breaches of the policy and taken a firm approach to ensure we are complying with the law and providing a smoke free environment to our colleagues.
>
> What have we changed?
>
> Electronic cigarettes – our approach has always been to treat electronic cigarettes/e-cigarettes in the same way as normal cigarettes. The increased availability/popularity of electronic cigarettes has led to the need for us to expressly build this approach into our policy.
>
> Why have we taken the approach not to permit e-cigarettes?
>
> We appreciate this is a sensitive issue. For some colleagues, electric cigarettes provide an effective way of stopping smoking. For others, they are a substitute for cigarettes. We have taken the following factors into consideration when arriving at our decision:-
>
> - The e-cigarette is very realistic in simulating smoking as it omits a visible vapour. This has already led to confusion with enforcing what needs to be a very

clear policy and would cause us particular concern in our petrol stations.

We need to continue to enforce the law sensibly, paying particular attention to the following examples:-

- Apply a zero tolerance approach to serious breaches of this policy – we need to be consistent across the business. We view each incident on its own merits, taking the following into consideration:-

  (a) Location of the incident (eg warehouse/toilet/carpark);

  (b) Type of cigarette smoking (tobacco or electric);

  (c) The colleague's length of service and record;

  (d) Any other mitigating factors.

  If, after this policy update has been introduced, you discover some colleagues have been breaching the policy and we have not previously addressed the issue, retrain all of our colleagues and then apply the zero tolerance stance.

- Make sure the policy is clearly explained in colleague inductions and be specific about where and when smoking is permitted."

The document goes on to state that the December 2007 policy on the notice boards should be replaced with this updated policy. Management teams were to be briefed at the next meeting and HR managers were to update local trade union representatives at their next catch up meeting.

3.6 At page 131 in the bundle the final page of is the smoking policy update which is headed "Questions and Answers". The relevant extracts state:-

"How do we communicate our policy on e-cigarettes to our customers?

We should treat electric cigarettes in exactly the same way as we would a normal cigarette and politely ask customers to refrain from using them whilst on our premises and thus comply with our policy.

The e-cigarette is not illegal as they are not disallowed by the smoking ban. How can we prevent people using them?

Whilst they might not be illegal, our policy requirement is being clearly articulated and colleagues who ignore or

breach this policy should be investigated and subject to disciplinary action.

What action should we take if we catch a colleague using e-cigarettes?

The consequences of smoking an electric cigarette are not as serious as smoking a real cigarette as it is not a criminal offence, so we would not consider this to be an act of gross misconduct. Blatant breaches of the policy (eg where it has been clearly communicated and understood) may be considered an act of serious misconduct warranting a final written warning. Take a commonsense approach during the transitional period when a new policy is being implemented."

3.7 On 4 October 2016 the respondent contacted the claimant to ask if he would be willing to work an additional shift that Tuesday night, when he would not normally have been rostered to work. The claimant agreed to work the additional shift. Ordinarily the claimant would not have been allowed outside for a cigarette break until 6:00am in accordance with the above policy, although he understood that by 5:30am he would have been allowed to do so. The claimant had with him throughout his shift an electronic cigarette which he had placed in his top pocket. At approximately 3:10am on the way down the staff staircase the claimant "tested my electronic cigarette to see if it was switched off as the light does not work". That involved, as the claimant put it, him taking a puff of the cigarette. As he did so, he was seen by his duty manager Ms Sandra Purvis. Ms Purvis informed the claimant that use of the electronic cigarette was not permitted.

3.8 Approximately 45 minutes later, the claimant was approached by Ms Purvis and another duty manager Mr Mark Mason and asked to accompany them to the office. Upon arrival at the office, the claimant was told that he was being suspended pending an investigation into an alleged breach of the respondent's no smoking policy. The claimant immediately explained that his intention had been to use the electronic cigarette on his break and that he had only been testing the e-cigarette when he was observed.

3.9 The claimant was invited to attend an investigatory meeting on 7 October. The claimant was accompanied by Ms Sharon Pounder, his trade union representative. At that meeting, the claimant explained that he did not smoke in the canteen and only had an electronic cigarette with him so that he could use it on his break and that he had not intended to smoke in the building. The claimant apologised for taking the e-cigarette onto the shop floor.

3.10 The claimant then received a letter inviting him to a disciplinary hearing on 10 October, to respond to the following allegation:-

"Being in breach of the company smoking policy when you were seen using an e-cigarette inside the store at approximately 3:30 on 4 October 2016."

The claimant was sent a copy of the respondent's disciplinary policy. The letter informed the claimant of his right to be accompanied and also advised him that a potential outcome of the disciplinary hearing could be his dismissal for gross misconduct.

3.11 The claimant attended the disciplinary hearing and was again represented by his trade union representative Ms Pounder. The claimant explained that he had been unsure about the electronic cigarette part of the smoking policy and had "just thought you would not be allowed to use them, that is why I did not use it at work and only used it in the smoking shelter."

3.12 The claimant's position was that he had not fully understood the extent to which the no smoking policy applied to the use of e-cigarettes. Mr Wilkinson himself mentioned that the policy was unclear and that there was some uncertainty about whether the changes and updates to the policy had been properly displayed on the store notice board where it could be seen by employees. Both the claimant and his trade union representative stated that they had not seen the updated policy. Nevertheless, the claimant accepted that he had only ever used his e-cigarette in the outside smoking shelter. The Tribunal found that the claimant was aware that he should not have been using his e-cigarette in any other place. It was put to the claimant that he must have known that he was not even allowed to have cigarettes (including e-cigarettes) on his person whilst he was working and that he was supposed to leave any cigarettes either in his car or in his locker, if he wished to smoke during his designated breaks. The claimant accepted that he was aware of the general rules.

3.13 In his evidence to the Tribunal, Mr Wilkinson accepted that at no stage during the disciplinary process was there brought to his attention the document which appears at page 130 in the bundle which is the "smoking policy update". He was not aware that it may make a difference to the outcome as to whether the type of cigarette used was a tobacco or electric cigarette. As far as Mr Wilkinson was aware, any smoking was gross misconduct which justified summary dismissal. Mr Wilkinson honourably and properly accepted that, had he been aware of the document at page 130, then it may well have made a difference to the outcome of the disciplinary hearing.

3.14 Mr Moore referred to his "testing" of the e-cigarette as a "stupid mistake" and stated that he rarely used his e-cigarette during working hours. The Tribunal found that it was reasonable of Mr Wilkinson to treat the claimant's explanation that he had been "testing" the e-cigarette, with some scepticism. Mr Wilkinson "considered that Mr Moore had knowingly and willingly carried the e-cigarette on his person throughout his shift, despite having opportunities to put the e-cigarette in his locker for safekeeping. I believe this displayed an intention to use the device and more importantly Mr Moore had admitted to making a stupid mistake. Mr Moore acknowledged that even if he had been testing the

implement as claimed, this required him placing the e-cigarette in his mouth and inhaling and exhaling the vapour, which constituted smoking." Mr Wilkinson concluded that this constituted a breach of the respondent's policies and procedures, that it was an act of gross misconduct and that such a breach may result in dismissal. Mr Wilkinson considered that dismissal was an appropriate sanction for gross misconduct in these circumstances and the claimant was summarily dismissed.

3.15 Mr Wilkinson does state at paragraph 23 of his statement, "I also did not consider a final written warning to be a sufficient punishment as I have serious concerns that awarding a sanction other than dismissal would set a precedent for other employees committing similar offences". The Tribunal found that this statement was unsupported by any evidence and certainly did not follow the guidance set out in the Smoking Policy Update which appears at page 130. Furthermore, at page 131 of that policy update, it clearly states that e-cigarettes are to be treated differently to tobacco cigarettes and, "we would not consider this to be an act of gross misconduct. It may be an act of serious misconduct warranting a final written warning."

3.16 The claimant was advised of his right to appeal and did so by letter dated 19 October. He states:-

> "I wish to lodge an appeal against my dismissal as I think the dismissal was too harsh as I was never warned about e-cigarette procedure and I was never spoken to by an official in respect of the procedure. There is nothing in the handbook about e-cigs."

3.17 The appeal was heard by Mr Keith Nicholson on 11th November 2016. The claimant was accompanied by Ms Hesse, his trade union representative, who also represented the claimant before the Employment Tribunal.

3.18 Mr Nicholson reviewed the witness statement from Ms Purvis, the investigation interview minutes and the disciplinary hearing minutes. He says at paragraph 10 of his statement, "I consulted the smoking policies which confirm to my understanding that the usage of e-cigarettes within the respondent's premises was tantamount to smoking cigarettes within the building. I also visited the premises in order to familiarise myself with the layout of the staff area of the store, in particular the area containing the staff notice board, the staff locker area and the stairs where the incident had taken place." Before the Employment Tribunal, Mr Nicholson also accepted that he had not been made aware of the Smoking Policy Update at pages 129-131 in the bundle. He was not aware that the respondent in that document set out that tobacco cigarettes should be treated differently to e-cigarettes and that smoking an electric cigarette was not as serious as smoking a real cigarette and would not be considered to be an act of gross misconduct. Mr Nicholson also conceded that, had he been made aware of this policy update, then it may have made a difference to the outcome of the claimant's

appeal.

3.19 The claimant told Mr Nicholson that he was unsure as to whether e-cigarettes were to be treated differently and that he had not seen any documents posted on the Doxford store staff notice board relating to these matters. The claimant nevertheless accepted that he had "a good idea" the use of e-cigarettes was prohibited on the shop floor.

3.20 The claimant asked Mr Nicholson to take into account his length of service and excellent disciplinary record and also pointed out that, were the dismissal to be upheld, he would find it very difficult to obtain alternative employment because of his age.

3.21 Mr Nicholson took the view that dismissal was an appropriate sanction in all the circumstances of the case. Mr Nicholson did not believe the claimant had only been testing the e-cigarette and took the view that the claimant was aware that the use of e-cigarettes was prohibited. At paragraph 20.1 of his statement Mr Nicholson states:-

> "I understood that breaches of the smoking policies would be deemed gross misconduct which was confirmed upon my review of the retail handbook, which states that smoking on the respondent's premises is a contravention of health and safety rules and is an example of gross misconduct. I also considered the terms of the smoking policy which aligns itself to the retail handbook in respect of e-cigarettes, which especially stipulates that smoking will be deemed an act of gross misconduct. For these reasons dismissal was not a harsh sanction in my view."

3.22 Mr Nicholson did not accept Mr Moore's alleged lack of knowledge of the smoking policy saying, "I found no evidence to support this allegation". However, Mr Nicholson readily conceded that he himself was unaware of the Smoking Policy Update. His explanation for not being aware of the document at page 129-131 was simply that HR had not brought it to his attention.

3.23 The claimant's appeal against his dismissal was itself dismissed and the claimant presented his claim form to the Employment Tribunal on 2 February 2017.

4 **The law**

The relevant statutory provisions engaged by the claim brought by the claimant are set out in sections 94 and 98 of the Employment Rights Act 1996:-

"**94 The right**

(1) An employee has the right not to be unfairly dismissed by his employer.

(2) Subsection (1) has effect subject to the following provisions of this Part (in particular sections 108 to 110) and to the provisions of the Trade Union and Labour Relations (Consolidation) Act 1992 (in particular sections 237 to 239).

98 General

(1) In determining for the purposes of this Part whether the dismissal of an employee is fair or unfair, it is for the employer to show--

(a) the reason (or, if more than one, the principal reason) for the dismissal, and
(b) that it is either a reason falling within subsection (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.

(2) A reason falls within this subsection if it--

(a) relates to the capability or qualifications of the employee for performing work of the kind which he was employed by the employer to do,
(b) relates to the conduct of the employee,
(c) is that the employee was redundant, or
(d) is that the employee could not continue to work in the position which he held without contravention (either on his part or on that of his employer) of a duty or restriction imposed by or under an enactment.

(3) In subsection (2)(a)--

(a) "capability", in relation to an employee, means his capability assessed by reference to skill, aptitude, health or any other physical or mental quality, and
(b) "qualifications", in relation to an employee, means any degree, diploma or other academic, technical or professional qualification relevant to the position which he held.

(4) Where the employer has fulfilled the requirements of subsection (1), the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer)--

(a) depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and
(b) shall be determined in accordance with equity and the substantial merits of the case."

5 The case law on the interpretation and application of section 98 of the Employment Rights Act 1996 is vast – indeed it could be said that the section has become encrusted with case law. The relevant principles established by those cases were comprehensively set out by Lord Justice Aikens in the Court of Appeal in **Orr v Milton Keynes Council A2/2009/2700**:-

"(1) The reason for dismissal of an employee is a set of facts known to an employer, or it may be a set of beliefs held by him, which causes him to dismiss the employee.

(2) An employer cannot rely on facts of which he did not know at the time of the dismissal of an employee to have established that the "real reason" for dismissing the employee was one of those set out in the statute.

(3) Once the employer has established before the tribunal that the real reason for dismissing the employee was one within section 98(1)(b), ie that it was a valid reason, the tribunal has to decide whether the dismissal was fair or unfair. That requires first and foremost the application of the statutory test set out in section 98(4)(a).

(4) In applying that subsection, the tribunal must decide on the reasonableness of the employer's decision to dismiss for the real reason. That involves a consideration in misconduct cases of three aspects of the employer's conduct. Firstly did the employer carry out an investigation into the matter that was reasonable in the circumstances of the case? Secondly, did the employer believe that the employee was guilty of the misconduct complained of? Thirdly, did the employer have reasonable grounds for that belief?

(5) If the answer to each of those questions is "yes", then the employment tribunal must go on to decide on the reasonableness of the response of the employer.

(6) In doing the exercise set out at (4) above, the tribunal must consider by the objective standards of the hypothetical reasonable employer, rather than by reference to its own subjective views, whether the employer has acted within a "band or range of reasonable responses" to the particular misconduct found of the particular employee. If it has, then the employer's decision to dismiss will be reasonable. But that is not the same thing as saying that a decision of an employer to dismiss will only be regarded as unreasonable if it is shown to be perverse.

(7) The employment tribunal must not simply consider whether they think that the dismissal was fair and thereby substitute their decision as to what was the right course to adopt, for that of the employer. The employment tribunal must determine whether the decision of the employer to dismiss the employee fell within the band of reasonable responses which a reasonable employer might have adopted".

6 The Tribunal found in the claimant's case that the respondent did hold a genuine belief that the claimant had committed an act of misconduct. Ms Purvis, the investigating officer, the dismissing officer and the appeal officer all genuinely believed that the claimant had been smoking his e-cigarette in circumstances which constituted a breach of the respondent's no smoking policy. The claimant had been observed doing so. The

claimant admitted doing so. The claimant's explanation was that he had been "testing" the cigarette and no more. The Tribunal found that the respondent was reasonably entitled to treat that explanation with some scepticism. Accordingly, the investigation into the commission of the alleged offence was reasonable in all the circumstances. The respondent therefore held a genuine belief on reasonable grounds after a reasonable investigation that the claimant had been smoking his e-cigarette in breach of the respondent's no smoking policy.

7 In considering the fairness or otherwise of a dismissal, the Employment Tribunal must direct its attention towards the fairness of the procedure which was followed by the respondent, throughout the disciplinary process. That means from the investigation through to the appeal hearing. It is the claimant's case, put with considerable vigour by Ms Hesse, that the entire process was flawed as it was tainted by the respondent's failure at every stage to properly follow the Smoking Policy Update which appears at pages 129-131 in the bundle. There was some confusion as to the status of this policy, with Mr Adkin for the respondent arguing that it was no more than "guidance". Mr Adkin submitted that the document was not one which should have ordinarily been made available to employees and was probably issued to staff holding a supervisory or managerial role, to be used as guidance in dealing with potential breaches of the no smoking policy.

8 Both Mr Wilkinson and Mr Nicholson conceded that they had not been made aware of this document, probably due to an oversight by the respondent's HR department. Both also accepted that, had they been made aware of this document, then it may well have made a difference to the outcome of both the disciplinary hearing and the appeal hearing. Mr Adkin argued that it would be improper for the claimant to attempt to rely upon this document, as it was not something that he was aware of at the time of him committing the offence or indeed at any time during the disciplinary process. Mr Adkin submitted that the claimant could not therefore use this document as a defence to explain why he had behaved on 8 October in a way which was a clear breach of the no smoking policy. Mr Adkin's argument was that there was a clear and obvious breach of the policy and that the claimant could not have known when he decided to smoke his cigarette that he was unlikely to be dismissed for it when he did not know about the existence of the smoking policy update.

9 The Tribunal was not persuaded by Mr Adkin's submission on this point. It cannot be fair or reasonable for the respondent to have a written policy about the difference in approach to be taken between the use of e-cigarettes rather than tobacco cigarettes. It is clear that the respondent's own policy recommends that they be treated differently. The crucial point is that the use of tobacco cigarettes is to be regarded as gross misconduct justifying summary dismissal, whereas the use of e-cigarettes is to be regarded as serious misconduct justifying a final written warning. That difference is of course crucial. It was accepted that the claimant was a loyal, long serving employee with a clean disciplinary record. This was his first offence. The policy itself states:-

> "View each incident on its own merits taking the following into account:-

- Location of incident;
- Type of cigarette smoking (tobacco or electric);
- The colleague's length of service and record;
- Any other mitigating factors".

10 Equally important is the consideration of what in all the circumstances amounts to a dismissal which falls "within the range of reasonable responses". The Tribunal found it somewhat duplicitous for the respondent to give guidance to its managers to the effect that the use of an e-cigarette by an employee with a long clean service history who was effectively committing a "first offence" should attract no more than a final written warning, yet attempt to argue that a dismissal in precisely those circumstances was something which fell within the range of reasonable responses.

11 It was submitted by Mr Adkin that the use of an e-cigarette should not be treated any differently to the use of a tobacco cigarette. The Tribunal accepted that, with the passage of time, the general consensus among the public generally, and indeed between employers and employees, would today be that e-cigarettes should be treated no differently to tobacco cigarettes. The Tribunal found that, had the document headed "Smoking Policy Update" at pages 129-131 not existed, then that is a view which the Tribunal would probably have taken. However, it cannot be denied that the respondent at the relevant time had a specific policy of treating e-cigarettes differently and, more importantly recommending a different sanction to those found to have been in breach of the no smoking policy by using an e-cigarette.

12 The Tribunal found that the respondent had failed to follow its own policy, whether by way of guidelines or recommendations, in the claimant's case. The Tribunal found that no reasonable employer in those circumstances, including the existence of that policy, would have dismissed an employee with a long clean service history, for a first offence of using an e-cigarette. The respondent failed to follow its own procedure. The respondent therefore failed to follow a fair procedure. The respondent's decision to dismiss the claimant in all of those circumstances fell outside the range of reasonable responses.

13 The claimant has submitted a schedule of loss which includes the calculation of a basic award and compensatory award. Pursuant to the provisions of section 122(2) and 123(6) of the Employment Rights Act 1996, the Tribunal must consider the extent to which, if any, the claimant has contributed towards his own dismissal by his conduct. If so, then the Employment Tribunal should reduce the amount of compensation to reflect the claimant's contributory conduct. The Tribunal found in the present case that the claimant had certainly contributed towards his dismissal. The claimant was fully aware of the no smoking policy. His evidence was that he only used his e-cigarette at the designated smoking area. His explanation that he had been "testing" the device was unrealistic, to say the least. The Tribunal found it more likely than not that the claimant had been using the e-cigarette in an area where he hoped he would not be observed, at a time when it would be at least two and a half hours before

he could be permitted to use a cigarette in a designated area. The claimant knowingly had the e-cigarette on his person at a time when he was aware that he should not have had it about his person. The Tribunal, having carefully considered all the circumstances of this case, came to the conclusion that the claimant and the respondent were both equally to blame for the sorry state of affairs which culminated in the claimant's dismissal. Accordingly any compensation awarded to the claimant should be reduced by 50% to reflect his willful and culpable misconduct.

14 The schedule of loss appears at page 25 in the bundle. It was agreed by both Ms Hesse and Mr Adkin that the figure of £2,185.84 for notice pay was in effect a duplication and that the value of fringe benefits had not really been lost because the claimant's wife still works for Morrison's and still has the same fringe benefits. It was agreed that the correct basic award is £3,278.76 and the correct compensatory award is £6,747.40. The total is therefore £10,026.16. Deducting 50% in the sum of £5,013.08 leaves total compensation payable to the claimant in the sum of £5,013.08. Those figures are agreed by the claimant and respondent.

15 In addition the respondent is ordered to repay to the claimant the sum of £960 by way of reimbursement of the Employment Tribunal fees.

Employment Judge Johnson

Date20 July 2017
JUDGMENT SENT TO THE PARTIES ON

24 July 2017

P Trewick
FOR THE TRIBUNAL