EMPLOYMENT TRIBUNALS

Claimant: **Miss J Hunter**

Respondent: **Flightcare Multi-Services UK Ltd**

Heard at: **Croydon** **On: 21 August 2017**

Before: **Employment Judge Truscott QC**

Representation
Claimant: In person
Respondent: Mr Lee Rogers, Solicitor

JUDGMENT

The claimant was not unfairly dismissed.

REASONS

PRELIMINARY

1. The respondent led the evidence of Mr Andy Ronaldson, station manager at Gatwick Airport and Mrs Margaret Burkenshaw, Training and Compliance Manager. The claimant gave evidence on her own behalf and led the evidence of Mr Fayd'Herbe de Maudave.

2. There was a bundle of documents to which reference will be made where necessary.

ISSUE

3. There was no issue that the reason for dismissal was conduct. The issue was whether the claimant was unfairly dismissed.

4. The ET1 narrates that "Throughout my employment at Flightcare Multiservices UK Ltd, I repeatedly suffered from bullying and intimidation from the Operations Manager (Jon Darling) whose behaviour towards myself and other work colleagues was regularly unprofessional. In addition, I have suffered repeatedly from blackmail by the company's management over my concerns and

grievances raised, which has amounted in me becoming a victim of embryonic whistle-blowing and unfair dismissal." This was focussed into the issue for the hearing.

FINDINGS OF FACT

5. The claimant was employed as a cleaner at Gatwick Airport from 4 November 2014. She was a hardworking and committed member of staff according to Mrs Burkenshaw. Her manager was Jon Darling the Operations Manager and his manager was Andy Ronaldson. Mr Ronaldson had known Mr Darling for about twelve years at previous employers. He knew that Mr Darling had a firm viewpoint on how things should be done. A number of employees objected to how he delivered his instructions. He had sat him down and asked him to modify his behaviour. Mr Ronaldson found the claimant to be a good worker who was very focussed. He said there were numerous occasions when the claimant had difficulties with other supervision. The Tribunal considered him to be a reliable witness.

6. The claimant had some disciplinary history with the respondent. The ET3 refers to incidents on 19 and 22 May 2015 in respect of which no disciplinary action was taken. There was no evidence presented to the Tribunal in connection with these incidents. The ET3 refers to the claimant receiving a verbal warning under the absence management policy on about 28 November 2015. No evidence was led in connection with this warning. The claimant was involved in an incident on 27th December 2015. Mr Darling's incident report is pages 58-59 of the bundle. On receipt of the Report, Mr Ronaldson instructed Gary Marden another Operations Manager to carry out an investigation. The Investigation meeting took place on 12 January 2016, the notes of that meeting are at pages 61-62. The recommendation was that there be a disciplinary hearing. A disciplinary hearing was fixed for 25 January 2016 to consider the allegation that the claimant had failed to comply with a reasonable management instruction given to her by Mr Darling to clean the Aspire lounge and leaving the airport without permission. The concern for the claimant was that Mr Darling wanted to drive her to the lounge and she felt uncomfortable with that. The claimant did not attend the hearing and the respondent offered to re-schedule. The claimant wrote to the respondent (page 65) asking them to adjudicate in her absence. In evidence, the claimant said that she had not attended as she was working another job and her time was very limited. Mr Ronaldson spoke to the claimant and stressed the importance of her attending the hearing. The claimant maintained that she had done nothing wrong and as there was no case to answer she did not need to attend. The claimant disputed this evidence. The hearing went ahead in the absence of the claimant and the result was that she was issued with a final written warning which was to remain on her file for a year, presumably from the date of the letter 8 February 2016 (page 66-67). She was told she a right of appeal. The claimant replied (page 68) stating that she would not be appealing but stated "This raises concerns as to John's intentions towards me and I do not feel comfortable with this individual without a third party present as a witness". She also made a number of other points about the evidence and procedure. Mr Ronaldson met with the claimant to discuss her statement and she explained to him that she did not feel comfortable having Mr Darling drive her to the Aspire lounge because she felt she would be subject to an "interrogation" by him regarding her refusal to clean it. The claimant says that she received no response to her letter.

7. The claimant was involved in an incident on 30 November 2016 which resulted in her suspension and ultimately her dismissal. She emailed Mr Ronaldson on 1 December stating that she wished to make a complaint of bullying and harassment but did not name Mr Darling. An argument had started between the claimant and Mr Hunt, another cleaner on an aircraft which they were cleaning. They were shouting at each other. The supervisor, Mr Paresh Majithia tried but was unable to calm the situation down. The argument continued in the office (crew room) and it is what took place in the office that formed the basis of the disciplinary action which was taken. The claimant acknowledged that she was shouting (page 92) but says that was in self-defence. Mr Darling asked the claimant to complete an incident report. She only inserted one line on the incident report form. Mr Darling's incident report, Mr Paresh Majithia's statement and two unsigned incident statements and a sign in sheet are at pages 70 – 75 of the bundle. Mr Ronaldson instructed Mr Marden to carry out an investigation. Mr Ronaldson also spoke to Mr Darling to discuss his incident report. The claimant raised a number of queries about the disciplinary process and said she wished to complain about Mr Darling. The investigation meeting took place on 2 December 2016 the notes of which are at pages 82-83 and 85-86. Following the investigation meeting, Mr Marden interviewed and took statements from Mr Hunt (page 92a-93) and from Mr Majithia and Mr Mourao (pages 94-95). In consequence of the investigation, the claimant was called to a disciplinary hearing by letter (pages 99-100) in which it was alleged that she had failed to comply with the instruction from Mr Darling to complete an incident statement, acting and behaving in an unreasonable manner and refusing to leave the airport when asked to and deliberately hiding her Airport ID Pass from GAL and the police when requested to hand it over. The hearing took place on 20 December (pages 105-109). The claimant handed over a written statement dated 18 December 2016 (pages 110-112), The claimant does not say that there was a historical issue with Mr Darling but does narrate the basis of her allegation against him that he set her up. The claimant accepted that Mr Darling had asked her and Mr Hunt to complete an incident statement and she accepted that she wrote one line. She accepted that after Mr Hunt had left she was asked again by Mr Darling to complete an incident statement. She did not do so. She claimed that she felt threatened by him. The claimant said that Mr Darling asked Mr Mourao to call GAL before asking her again to hand over her airside security pass. She accepted that she had initially refused to hand over the pass when asked to do so by the police, she said she was not thinking straight was under pressure and paranoid. She was worried she would not be paid so she hid it from everyone. The claimant sent an email to Mr Ronaldson on 27 December 2016 in which she said that two employees of Gate Gourmet were on the plane on the night of the incident. These employees were not interviewed as the disciplinary incident concerned what took place in the crew room. Mr Ronaldson interviewed Mr Maudave and Mr Rajendram and spoke to GAL who explained that they had called the police because they could hear the shouting and commotion in the background of Mr Mourao's call, he also dealt with a number of points raised by the claimant (pages 134-144). Mr Ronaldson drew the conclusions set out at paragraph 43 of his statement. He decided that summary dismissal was appropriate, failing which, having regard to the final written warning her employment should end on notice. The decision and reasons were confirmed by letter dated 13 January 2017 (pages 159-163). It is a lengthy letter and lists the sources from which he gleaned the information upon which his decision was based but, in essence, finds that the claimant committed the misconduct she was

accused of, and these conclusions are set out in more detail on page 162, and the result of that disciplinary hearing was that the claimant was summarily dismissed. The claimant said that she was dismissed because Mr Ronaldson knew Mr Darling but Mr Ronaldson did not agree that he was favouring Mr Darling. She was dismissed because of her behaviour.

8. The claimant appealed the decision to dismiss her by letter dated 23 January 2017 (pages 170-176). An appeal hearing was set for 2 March 2017 to be heard by Mrs Margaret Burkenshaw. The essence of the appeal was that the two employees of Gate Gourmet had not been interviewed, that the events of 30 November had been contrived by Mr Darling and Mr Hunt in order to exit her from the business, the claimant had been told by Mr Majithia that her employment was going to be terminated prior to 30 November and that the emails she had submitted to Mr Ronaldson after the disciplinary hearing had not been considered by him prior to his decision. The notes of the meeting are at pages 193-197). The claimant said that the appeal was intimidating and no water was provided. Following the meeting, Mrs Burkenshaw asked Mr Ronaldson to address some queries and interview Mr Maurao and Mr Masjithia about the "set up" allegation. A copy of his response is at pages 186a-186i. Mrs Burkenshaw also examined the personnel files of the claimant and Mr Darling to see if previous complaints had been made against him. The claimant texted Mrs Burkenshaw and there was a further exchange between them. The claimant claimed that the notes of the appeal hearing were factually inaccurate but did not specify how. The appeal was rejected for the reasons set out in paragraphs 18 and 19 of Mrs Burkenshaw's statement. She deals with the complaint of "set up" at paragraph 20. She agreed with Mr Ronaldson that the appropriate penalty was one of dismissal particularly as there was a live written warning on the file but in the light of the claimant's belief that she had been set up, the dismissal was changed to one with notice.

9. The grievance dated 22 December 2016 (pages 116-121) which the claimant raised was in essence that Mr Darling had set her up so that she could be disciplined and/or dismissed. This was heard on 11 January 2017 (pages 156-158) and Mrs Burkinshaw heard the appeal on 2 March 2017 (pages 184-185. Her appeal was rejected. Mrs Burkishaw states at para 21 of her statement that "Save for the grievance Miss Hunter had submitted on the 22nd December 2016, which was after the disciplinary process had been instigated, there were no other complaints on file from either Miss Hunter or any other FMS employees at Gatwick in respect of Mr Darling." This is not correct as at the very least the claimant's letter to Mr Ronaldson (page 68) raised concerns with him about Mr Darling.

SUBMISSIONS

10. The Tribunal heard brief oral submissions from both parties.

LAW

Dismissal for Gross Misconduct

11. In common law gross misconduct is conduct by an employee which fundamentally repudiates his contract of employment and justifies summary dismissal. There are several authorities such as **Laws v. London Chronicle Ltd** [159] 1 WLR 698 and **Wilson v. Racher** [1974] IRLR 114 which confirm that

gross misconduct is misconduct of such a nature that it fundamentally breaches the contract of employment. In the case involving the organist of Westminster Abbey, **Neary v. The Dean of Westminster** [1999] IRLR 288, who was summarily dismissed for gross misconduct, the Queen's Special Commissioner, Lord Jauncey, at paragraph 22 stated that:

> "…conduct amounting to gross misconduct justifying dismissal must so undermine the trust and confidence which is inherent in the particular contract of employment that the master should no longer be required to retain the servant in his employment."

This test for gross misconduct or repudiation was endorsed by the Court of Appeal in **Briscoe v. Lubrizol Ltd** [2002] IRLR 607. In this case, Mr Briscoe was in breach of his duty to obey a lawful instruction to attend upon his employer to discuss his long-term sickness and in breach of an instruction to return the employer's calls to rearrange that appointment. Further, his continuing absence from work was unexplained by a current medical report. As Lord Justice Ward pointed out at paragraph 14 of his judgment in this case: *"…the duties of trust and confidence are mutual."* Mr Briscoe had so undermined these duties that Lubrizol was no longer required to retain him in employment.

To summarise, a test of whether gross misconduct can be said to have occurred is for the employer to ask himself, 'Because of the employee's action, and after considering the results of my investigation of it and of the explanation (if any) offered when I gave him the opportunity to do so, is it reasonable for me to conclude that I can no longer tolerate his continued presence at the place of work?' If the answer to this is 'yes' the employer is in effect saying that the employee's action was sufficiently repudiatory to constitute gross misconduct. If the answer is 'no' or if the employer is uncertain, the misconduct will not have been 'gross' by the application of this criterion, and it may merit either a formal warning that repetition of misconduct may lead to a decision to dismiss the employee. If inclining towards a conclusion that the employee's misconduct was so serious that summary dismissal is the right course, a question for the employer then to ask himself is whether in the circumstances a reasonable employer would dismiss this employee for that misconduct as the tribunal will ask, 'Have the employers acted reasonably in using the established reason for dismissal as a sufficient one?' (**Laws Stores Ltd v. Oliphant** [1978] IRLR 251).

Procedure when Dismissing for Misconduct

12. When deciding whether or not to dismiss an employee for misconduct, an employer must be prepared to establish to an employment tribunal the reason for the dismissal and to provide sufficient evidence for the tribunal to decide that in the circumstances the employer had acted reasonably in treating his reason for dismissing the employee as sufficient. To meet the reasonableness test which tribunals are expected to apply, the employer should be prepared to show that he had followed a fair procedure and had taken a decision on the balance of probabilities. Particularly important are the initial steps for the employer to take, namely that:

(a) a proper investigation has been carried out into the employee's alleged failure to comply with a reasonable order, instruction, work rule, statutory duty or contractual requirement;

(b) the failure represented serious misconduct by the employee which would not be overlooked, or met by a warning or some lesser disciplinary action (unless an extant formal recorded warning exists and is taken into consideration);

(c) the employee, after being informed of, and given time to consider, what was alleged against him or her, had been provided with an opportunity to offer an explanation at the level responsible for the decision to dismiss, and before that decision was taken;

(d) any formal disciplinary procedure which preceded the decision to dismiss, or the confirmation of that decision, was fairly conducted consistently with natural justice, the procedure itself, and the procedural steps specified in it.

13. The requirement of reasonableness in Section 98(4) Employment Rights Act 1996 relates not only to the outcome in terms of the penalty imposed by the employer, but also to the process by which the employer arrived at the decision. The test is not simply, therefore, whether the dismissal fell within the 'band of reasonable responses', but also whether the procedure used in reaching the decision to dismiss satisfies the test (see **Whitbread plc v. Hall** [2001] IRLR 275).

Tests of the Employers' Reasonableness

14. The Employment Rights Act 1996 sets out the 'range of reasonable responses' test, to determine whether or not the dismissal, particularly in cases of alleged misconduct, is unfair.

The statutory reasonableness test which tribunals must apply when deciding unfair dismissal complaints requires that where the employer has fulfilled the requirements of subsection (1) of Section 98 of the Employment Rights Act 1996, then, subject to sections 99 to 106 of the Employment Rights Act (which have no applicability in this case) the determination of the question whether the dismissal was fair or unfair, is established in accordance with Section 98(4) of the Employment Rights Act, which states:

> (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.

This contains the crucial question which all tribunals must decide in unfair dismissal cases once the fact of dismissal and the real reason for it have been

established. Put briefly, it is, 'Did the employer act reasonably or unreasonably in treating the real reason as a sufficient reason for dismissing the employee?' However, the whole of Section 98(4) of the Employment Rights Act has to be considered as a single question.

15. The Employment Appeal Tribunal in **Iceland Frozen Foods Ltd v. Jones** [1982] IRLR 439 summarised the way in which tribunals should approach the statutory question, saying at paragraph 24:

> "(1) The starting point should always be the words of section 57(3)[1] themselves;
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> (2) In applying the section, an industrial [employment] tribunal must consider the reasonableness of the employer's conduct, not simply whether they (the members of the employment tribunal) consider the dismissal to be fair;
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> (3) In judging the reasonableness of the employer's conduct, an employment tribunal must not substitute its decision as to what was the right course to adopt for that of the employer;
>
> (4) In many (though not all) cases there is a band of reasonable responses to the employee's conduct within which one employer might reasonably take one view, another quite reasonably take another;
>
> (5) The function of the industrial [employment] tribunal, as an industrial jury, is to determine whether in the particular circumstances of each case the decision to dismiss the employee fell within the band of reasonable responses which a reasonable employer might have adopted. If the dismissal falls within the band, the dismissal is fair: if the dismissal falls outside the band, it is unfair."

16. In considering reasonableness in the context of a misconduct dismissal, **British Home Stores Ltd v. Burchell** [1978] IRLR 379 contained guidelines, cited in most tribunal cases involving dismissal for misconduct and are contained in the following quotation from the Employment Appeal Tribunal's judgment at paragraph 2:

> "What the tribunal have to decide every time is, broadly expressed, whether the employer who discharged the employee on the ground of the misconduct in question (usually, though not necessarily, dishonest conduct) entertained a reasonable suspicion amounting to a belief in the guilt of the employee of that misconduct at that time. That is really stating shortly and compendiously what is in

[1] Said provisions of the Employment Protection (Consolidation) Act 1978 having been superseded by section 98(4) of the Employment Rights Act 1996.

> fact more than one element. First of all, there must be established by the employer the fact of that belief; that the employer did believe it. Secondly, that the employer had in his mind reasonable grounds upon which to sustain that belief. And thirdly, we think, that the employer, at the stage at which he formed that belief on those grounds, at any rate at the final stage at which he formed that belief on those grounds, had carried out as much investigation into the matter as was reasonable in all the circumstances of the case. *[It is the employer who manages to discharge the onus of demonstrating those three matters, we think, who must not be examined further.]* It is not relevant, as we think, that the tribunal would itself have shared that view in those circumstances. It is not relevant, as we think, for the tribunal to examine the quality of the material which the employer had before him, for instance to see whether it was the sort of material, objectively considered, which would lead to a certain conclusion on the balance of probabilities, or whether it was the sort of material which would lead to the same conclusion only upon the basis of being sure' as it is now said more normally in a criminal context, or, to use the more old-fashioned term, such as to put the matter beyond reasonable doubt'. The test, and the test all the way through, is reasonableness; and certainly, as it seems to us, a conclusion on the balance of probabilities will in any surmisable circumstance be a reasonable conclusion."

The bracketed sentence in italics has been inappropriate since the October 1980 amendment removing the burden of proof.

Procedural Aspects

17. Although not having to prove that he had acted as a reasonable employer in the circumstances of a particular dismissal, an employer can expect a tribunal to want to hear evidence about his handling of the matter. Guidelines on this were offered by the Employment Appeal Tribunal in **Whitbread and Co plc v. Mills** [1988] IRLR 501 when, quoting from **Polkey v. A E Dayton Services Ltd** [1987] IRLR 503 HL, the Employment Appeal Tribunal said that an employer will normally not be acting as a reasonable employer unless, in the case of dismissal for misconduct, he investigates the complaint of misconduct fully and fairly and hears whatever the employee wishes to say in his defence or in explanation or mitigation (see paragraphs 39 and 40).

18. A dismissal is unfair if the employer unreasonably treats his real reason as a sufficient reason to dismiss the employee either when he makes his original decision to dismiss or when he maintains that decision at the conclusion of an internal appeal. Whilst there was some suggestion that the 'range of reasonable responses' test applies only to the decision to dismiss, not to the procedure adopted, this has been rejected by the Court of Appeal in **Sainsbury's Supermarkets Ltd v. Hitt** [2003] IRLR 23. The Court of Appeal held in this case (at paragraph 30) that the 'range of reasonable responses' - or the need to apply the objective standards of the reasonable employer - applies:

> "…as much to the question of whether the investigation into the suspected misconduct was reasonable in the circumstances as it does to the reasonableness of the decision to dismiss for the conduct reason."

19. If an appeal hearing is sufficiently comprehensive it is capable of remedying earlier defects in the disciplinary process. Whether or not the appeal process is sufficiently comprehensive to redress any earlier procedural defects will be a question of fact for the employment tribunal (see **Taylor v OCS Group Ltd** [2006] IRLR 613, CA approving **Whitbread & Co plc v Mills** [1988] ICR 776, EAT). What is necessary is for the employment tribunal to consider the disciplinary process as a whole when assessing the fairness of the dismissal. In **Khan v Stripestar Ltd** UKEATS/0022/15 (10 May 2016, unreported) (Lady Wise sitting alone) the EAT stated that there was no limitation on the nature and extent of the deficiencies in a disciplinary hearing that could be cured by a thorough and effective internal appeal.

Warnings

20. The employer's disciplinary procedure will usually provide machinery for an appeal against a warning. In general, an employee is well advised to challenge a warning that he or she disagrees with immediately under such a procedure. While it is true that a failure to appeal is not automatically to be construed as acquiescence in it by the employee, especially where that employee can point to good reason (or indeed positive advice) not to use the procedure, it must not be assumed that a successful challenge can be maintained to the warning at a later stage, in particular where it forms an integral part of a later decision to dismiss. This is because the issuing of a warning is primarily a matter for the employer and a tribunal must be particularly careful not to fall into the error of substituting its own view of whether the warning should have been given in the first place. This conundrum was addressed in **Stein v Associated Dairies Ltd** [1982] IRLR 447 EAT where the test required to be satisfied before it would be appropriate for a tribunal to look behind a warning was deliberately couched in more exacting terms than the test for unfairness in respect of a dismissal. It was held that provided the warning was issued in good faith and there were *prima facie* grounds for it (or, to put it another way, provided the warning was not issued for an oblique motive or was not manifestly inappropriately issued) the employer and the tribunal are entitled to regard the warning as valid for the purposes of any dismissal arising from subsequent misconduct, provided that the subsequent misconduct is such that, when taken together with the warning, the dismissal or the decision to dismiss is a reasonable one. **Stein** was cited with approval by the Court of Appeal in **Tower Hamlets Health Authority v Anthony** [1989] ICR 656 CA and in **Davies v Sandwell BC** [2013] IRLR 374.

21. In **Bandara v BBC** UKEAT/0335/15 (9 June 2016, unreported), the claimant had had an 18 year clear employment record when he was taken to task over two relatively minor episodes. He was *given a final written* warning for gross misconduct. When further disciplinary proceedings were later brought, that final warning was mentioned in the decision to dismiss him summarily. When he claimed unfair dismissal, the tribunal agreed that the final warning was so over the top as to qualify as 'manifestly inappropriate'. However, it then proceeded to

hold that an ordinary warning would have been merited; on the basis that dismissal after such a warning would have been fair it held that this dismissal was fair. Allowing the claimant's appeal, the EAT held that this was entirely the wrong approach. In a case such as this, the tribunal must work on the basis of the invalid warning and still consider what the employer did (in the light of the warning), not what it might have done - the invalidity of the warning will usually make the dismissal unfair, unless it appears that it in fact played little part in the employer's decision.

CONCLUSION

22. The claimant made a series of allegations against the respondent while she was in their employment which were repeated and widened at the Tribunal. This led to the hearing not being as focussed as it should have been.

23. The claimant had some disciplinary history with the respondent. The Tribunal considered whether there was an impact on the proceedings of the 2015 disciplinary procedures but it did not consider that there was. The claimant had outstanding a final written warning which the Tribunal considered was valid.

24. The incident which led to her dismissal was that the claimant participated in a noisy dispute with a fellow worker which moved into the crew room and in turn led to the involvement of Mr Darling. Plainly the claimant had had concerns about Mr Darling in the past and might have seen the sense in not exacerbating the problems. However, she did not and her behaviour got worse. A substantial investigation took place into her behaviour on the night in question. Although substantial, the investigation was not complete. While Mr Ronaldson spoke with Mr Darling about the incident outwith the disciplinary procedure, he did not interview him as part of the procedure and did not put the allegations made by the claimant to him. It may be that the allegations hadn't found their way through the process to Mr Ronaldson by the stage he was dealing with the disciplinary hearing, but at the very least he was aware of the propensity of Mr Darling to upset employees and he was aware of the claimant's concern about him. The Tribunal was concerned that a summary dismissal for the offence allegedly committed that night, when tempers were heated and possibly not assisted by Mr Darling might fall outwith the band of reasonable responses. Mr Ronaldson did say that, in the alternative, having regard to the final written warning, a dismissal on notice was justified. In addition, the appeal stage has to be taken into account.,

25. The Tribunal considered very carefully whether at the appeal stage, by which time the nature of his alleged behaviour and the nature of the set up allegations, were as clear as they were ever going to be, Mr Darling should have been interviewed. The Tribunal has already noted that Mrs Burkinshaw was not aware of the earlier complaint the claimant made about Mr Darling but she was about to hear an appeal in relation to a grievance which revolved around Mr Darling's behaviour. The focus was not on his treatment of the claimant as an employee but as being part of a set up aimed at ending her employment. Such evidence as there might have been about a set up was considered by her and dismissed. However, there was a recognition that the claimant might have been upset by such allegations and the summary dismissal was altered to a dismissal with notice. The appeal took into account the final written warning which had been issued to the claimant (paragraph 22).

26. Generally, the claimant did not accept that she had behaved in the manner described in the disciplinary charges nor did she have insight into the extent of the disruption she caused but in the light of all the other information available to the respondents, the inappropriate behaviour of the claimant was established by evidence other than that of Mr Darling. The final written warning which had been issued was still valid. The Tribunal considered that a dismissal with notice when the final written warning was taken into account fell within the band of reasonable responses for the respondent.

27. The Tribunal concluded that the claimant was not unfairly dismissed.

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Employment Judge Truscott QC
Date: 5 January 2018