



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms S Van Zeller

**Respondent:** Asda Stores Limited

**Heard at:** Carlisle **On:** 25 and 26 February, 2019

**Before:** Employment Judge Nicol

## Representation

**Claimant:** Mr S Walker, Solicitor

**Respondent:** Mr R Dunn, Counsel

# JUDGMENT

After hearing the parties, it is the judgment of the Tribunal that the complaint by the claimant that she was unfairly dismissed is not well founded and is dismissed

# RESERVED REASONS

1 At the end of the hearing, the Tribunal gave its Judgment but reserved on giving its Reasons for the Judgment. These are the Tribunal's Reasons which have been prepared without further deliberations.

2 This is a complaint by Susan van Zeller, the claimant, against Asda Stores Limited, the respondent, arising out of her employment by the respondent as a people trading manager. The claimant alleges that she was unfairly dismissed by the respondent, which the respondent denies.

3 The claimant's employment with the respondent commenced on 4 June, 2007, and the effective date of termination was 11 January, 2018, when the claimant had been in continuous employment for ten complete years. A previous period of

employment with the respondent did not count as an extension of her continuous employment because of a break between the two periods.

4 Both parties accepted that, at the relevant times, the claimant had been an employee of the respondent. The respondent admits that the claimant was dismissed and contends that this was on the ground of conduct. The parties submitted an agreed list of issues that was accepted by the Tribunal, subject to the deletion of the second issue as the only ground for dismissal put forward by the respondent is conduct and it is for the respondent to prove the reason for dismissal. The identified issues are set out later in these Reasons. Briefly, the Tribunal must decide whether this was the ground for dismissal and whether the dismissal was unfair. If the claimant was unfairly dismissed, the Tribunal must consider whether the claimant caused and/or contributed to the dismissal or whether there are any other factors that might affect the remedy to which the claimant might otherwise be entitled and the appropriate remedy, if any. The claimant confirmed that although she made reference to a grievance in her claim form it is not contended that she suffered a detriment after making a protected disclosure.

5 The Tribunal heard evidence from the claimant and from Karl Jason Brown, general store manager, and Christopher Jason Beaumont, senior director, on behalf of the respondent. The witnesses gave their evidence in chief by submitting written statements that were read by the Tribunal before the hearing and confirmed on oath/affirmation. None of the witnesses were asked supplemental questions. All witnesses were cross-examined. The Tribunal had before it a large bundle of documents, marked 'Exhibit R1'. Both parties made oral closing submissions by reference to skeleton arguments. From the evidence that it heard and from the documents that it saw, the Tribunal finds the following facts.

6 The respondent is a major national retailer operating supermarkets and similar stores around the country including the one at Kendal where the claimant worked. The claimant has various policies, including those covering discipline, grievances, appeals and ethics.

7 The disciplinary policy states that certain types of alleged misconduct must be reported to Asda Ethics or Global Ethics, which are part of the respondent and/or its parent company. These include incorrect records and account but do not specifically include a breach of the ethics policy. The disciplinary policy suggests that there should be an initial investigation to see if there is a case to answer or whether the matter can be dealt with informally. It is not clear whether this is intended to precede a formal investigation. An example of gross misconduct is a serious breach of the ethics policy. The appeals policy states, among other things, that new evidence should be referred back to the original decision maker to reconsider that person's decision and should not be heard as part of the appeal. The ethics policy states that 'it is breaking the law and Walmart policy for you to work without compensation.' An example is given of a colleague being asked to gather trolleys each evening when leaving the car park. This is stated to be wrong and that the person requesting the gathering should be reported to management or Global Ethics. The ethics policy is an important one for the respondent and is intended to be the basis on which it does business. The Tribunal accepted that a breach of this policy is treated as being extremely serious.

8 The respondent operates a Stars Recognition Scheme which is intended as a means of recognising and rewarding service by employees, referred to as 'colleagues',

above and beyond the normally expected standard. Points are awarded which can be used in respect of purchases with each point being used as a pound in money values. Points are treated by HMRC as a taxable benefit in kind. According to the terms and conditions 'all tax liabilities will be accounted for by Asda'. How this is done was not properly explained to the Tribunal. It appeared that the value of points is received net by a colleague who is not concerned with the tax liability. It seemed likely that the points are not shown on payslips and that the total is not included in taxable pay. Obviously, the gross amount and the tax accounted for may be shown in an alternative return made by the respondent to HMRC. It is not intended that points should be awarded in place of normal remuneration.

9 According to the claimant's evidence, within the Kendal store there was an annual budget of 1800 star points which could be used at the discretion of those with authority to allocate them. They were intended to be awarded on merit and, subject to the budget, there was not a limit on how many could be awarded to a single colleague and there was not a scale of the number of points that might be awarded for a particular type of action. All managers could nominate colleagues for awards. In addition the colleague voice group, which consisted of the general store manager, the claimant and ten representatives of colleagues from across the store, could award points. Only the general store manager, the claimant and Sandie Shadbolt, the scheme administrator, could enter points on the system.

10 The claimant was employed as a people trading manager. Within the Kendal store, this is a third tier post below the general store manager and the deputy store manager. There were three managers, including the claimant, at the claimant's level and various other managers at the next tier down. The claimant was responsible within the store for HR matters.

11 Ben Welcher was appointed as general store manager in around June, 2017. There was friction between the claimant and Mr Welcher and Eloise Castagnini, senior manager people, north west.

12 The claimant had the impression that Mr Welcher wanted her to resign, although he never expressly asked her to do so. She alleges that he told her that the respondent had "something" on [her] and it was big' and 'it related to a colleague called Albiston and it was ethical but he gave [her] no further details'.

13 Shortly after this is alleged to have occurred, the claimant commenced sickness absence on 17 July, 2017, with work related stress, from which she did not return to work for the respondent. The claimant instigated a grievance against Mr Welcher and Ms Castagnini on 21 July, 2017. The grievance was dealt with during her absence, as were the disciplinary proceedings which led to the claimant's dismissal. There does not appear to be any complaint about this.

14 The grievance was not upheld and an appeal against this decision was rejected. The grievance was referred to by way of background information and did not form part of the allegations made by the claimant in these proceedings. Much of the grievance was based on the claimant's perception of her treatment by Mr Welcher but this was not upheld. The Tribunal was not asked to and did not have the information to decide if the grievance was wrongly decided. However, it was clear to the Tribunal that there

was ill-feeling between the claimant and Mr Welcher and that this may have been mutual.

15 The disciplinary action commenced after Mr Welcher and Margaret Oliver, a colleague, had discussed the matter. It appeared that there was discussion between colleagues about Lorraine Albiston receiving star points to an extent that was considered unfair. The points in question included those awarded after Mrs Albiston assisted in the preparation for a Christmas lunch and which exceeded those awarded to others involved. Initially, they saw Ms Shadbolt and then Mr Welcher reported the matter through the ethics hotline. The claimant suggested that this was part of the investigation process and was not in accordance with the disciplinary policy. The Tribunal accepted that Mr Welcher was entitled to establish whether there were facts that needed to be reported before proceeding with a formal complaint in case the allegation was false, it was a simple misunderstanding or otherwise did not warrant further action.

16 It is not entirely clear why there was a delay but eventually the matter was referred back to Ms Castagnini to appoint an investigating officer. She appointed Stephen Clinton, who was a general store manager, as is confirmed in an email dated 10 November, 2017, which refers to the claimant 'now being in a place to meet with an appointed manager'. Part of the reason for the delay may have been the claimant's state of health. He appeared to be independent and without prior knowledge of the matter and the individuals involved. There was not any evidence to suggest that he was instructed or otherwise improperly influenced to reach any particular outcome.

17 The events to which the disciplinary action related was the organisation of an in-store Christmas lunch for colleagues. This was an officially approved function organised by the colleague voice group. It was expected that members of the group would be rostered to work on the day in question but instead of performing their normal duties they would be expected to help prepare for the lunch. If necessary, cover would be provided to perform their normal duties. Functions undertaken by the group members were classed as work and had to be paid for in the normal way, which is in accordance with the ethics policy. Mrs Albiston was not a member of the colleague voice group. However, she had previously worked in the canteen and could provide useful assistance to the group. It is not clear whether she was asked or volunteered but, in either event, she worked with the group from 11.00 to about 16.30. Because of her family situation, Mrs Albiston was only able to work for a certain number of hours because if she worked more it would have an impact on statutory benefits that her family received. She commenced work at 07.30 and clocked out at 11.00 when her permitted hours ran out. She was happy to work with the group without payment because she wanted to assist in preparing for an event that her colleagues would enjoy. It was generally accepted that this was actually in breach of the ethics policy.

18 In consequence of the group assisting with the lunch, each member was awarded ten star points but it was decided to award Mrs Albiston 30 star points. The claimant now says that this was intended as an enhanced 'thank you' for the work she had done but was not intended as remuneration for working unpaid hours.

19 Whilst denying that she had committed a disciplinary offence, she accepted that if the allegations made against had been well founded, her conduct would have amounted to gross misconduct.

20 Precisely what happened in respect of the extra hours worked by Mrs Albiston is in dispute. The claimant now says that when she told all of those working on the lunch to ensure that they clocked out correctly, Mrs Albiston pointed out that she was not clocked in because she was working unpaid. In her statement presented to the Tribunal, the claimant states 'When I questioned her about this, she said she was not able to work beyond 11.00 am due to her husband's benefits position. I said that she could not work for nothing and I would have to sort it out'. Significantly, the statement does not include any reference to what the claimant did to sort it out other than the references to star points, which the claimant contends were not used in the sorting out process. The claimant says that if she had known about this earlier she would have sent Mrs Albiston home. Ms Shadbolt told the investigation that she had told the claimant earlier but the claimant says that she cannot recall the conversation but that, if it took place, she may not have heard what was said to her.

21 Ms Oliver also had a poor relationship with the claimant. She said, when interviewed, that she found out about what happened when another colleague complained about Mrs Albiston getting star points 'again'. Ms Oliver raised the matter with Mr Welcher and they both saw Ms Shadbolt. They both say that Ms Shadbolt confirmed that the extra star points were awarded to Mrs Albiston because of her benefits situation but that when asked to write this down Ms Shadbolt changed what she said. The written statement has disappeared and there is no explanation for this. In her first investigatory interview, Ms Shadbolt said that she was aware of Mrs Albiston's situation because she drove her into work and they discussed the day during the journey. In her first interview, Mrs Albiston said that she was told after the event that she was getting star points for working but that she had not received them.

22 When the claimant, who was accompanied by a colleague, was interviewed, she said that she only found out about Mrs Albiston when she asked the group if they had all clocked in, which contrasts with later versions. She said that it was the group that suggested giving Mrs Albiston star points. She also said that she could not remember if other members of the group received star points. She said that she had discussed with Ms Oliver how to recompense Mrs Albiston without affecting her benefits, such as time off in lieu, and that at 'some point' she would have asked if it had been resolved but she does not mention the outcome. The claimant also said that she thought that the extra hours would be paid for by way of 'additions' and that she, the general store manager and the deputy manager had authority to sign them off but that she could not recall signing anything. She could not recall telling Mrs Albiston that she would receive star points two days after the event. At this hearing, the claimant seemed to suggest that she had expected Mrs Albiston to receive an overtime payment for the additional hours worked but that it was not her responsibility to see that this payment was made.

23 By a letter dated 18 December, 2017, the claimant was invited to a disciplinary hearing on 29 December, 2017. The letter set out the nature of the disciplinary offence and warned that, if proven, it could result in summary dismissal. Enclosed with the letter were the reports of interviews and documents relating to the award of star points.

24 The disciplinary hearing conducted by Mr Brown did take place on 29 December, 2017. He appeared to be independent and without prior knowledge of the matter and the individuals involved. There was not any evidence to suggest that he was instructed or otherwise improperly influenced to reach any particular outcome. Sara Wilcocks acted as note taker and the claimant was accompanied by Elizabeth

Garrett. It is clear that the claimant had been able to prepare for the hearing and was able to raise all of the matters that she wished. Mr Brown adjourned the hearing to allow him to conduct further investigations as a result of the matters raised by the claimant. The Tribunal was satisfied that the function of the investigating officer was to establish the facts and to see if there was a case to answer. It was then for the officer conducting the disciplinary hearing to decide if he/she had sufficient information to reach a decision and, if not, to make further enquiries. This did not demonstrate a flaw in the procedure.

25 Mr Brown conducted a lengthy interview with Mr Welcher. One matter discussed was the missing statement by Ms Shadbolt. Mr Welcher understood that Ms Shadbolt had limited what she had written because she did not want to incriminate anyone, especially, Mrs Albiston, with whom she was very friendly. Whilst the disappearance of the statement might be considered unfortunate, Mr Welcher did not seek to hide its contents and the difference with the earlier comments.

26 Mr Brown also interviewed Ms Oliver. She thought that Mrs Albiston had worked an additional two hours in respect of the Christmas lunch and that these were paid for in star points. Ms Oliver said that she had become aware of this in February/March, 2017, but did not raise the matter with the claimant because of 'things going on between' them. She said that she discussed it with Ms Shadbolt who confirmed that the points were awarded instead of wages because of the situation over benefits. At the end of the interview, Mr Brown asked Ms Oliver if she had influenced any colleagues in relation to the matter and she denied that she had. She also confirmed that she had answered the questions put to her honestly.

27 In her interview with Mr Brown, Mrs Albiston gave the impression that the claimant knew about her benefits situation and indicated that she would sort something out for her. She expected chocolates or a day off in lieu but was told by the claimant a few days later that some star points had been sorted out for her. Mrs Albiston also said that the points awarded by the claimant had 'disappeared' from her account, which contradicted her earlier comments.

28 When interviewed by Mr Brown, Ms Shadbolt explained how Mrs Albiston came to be working on the Christmas lunch. She also said that she told the claimant 'mid morning' and before the lunch that Mrs Albiston could not work beyond 11.00 but that she was happy to stay on if needed. Ms Shadbolt had concerns about this because of possible health and safety implications. She said that they had thought that Mrs Albiston should get more star points than the others because she was working when she did not need to. They looked at 'how much she would have been paid – so not too generous or mean'. It would seem clear from this that no other form of remuneration was being considered. When asked about her discussion with Mr Welcher and Ms Oliver, Ms Shadbolt was vague but thought that it was leading towards the star points for Mrs Albiston but could not recall if a direct question was put to her.

29 Before the disciplinary hearing was reconvened on 11 January, 2018, the claimant was sent the notes of the additional investigations by email. At the hearing Mr Brown was again accompanied by Ms Wilcock and the claimant was accompanied by Ms Garrett. The Tribunal was satisfied that the claimant had time to prepare for the meeting and was able to present all of the points that she wished.

30 Mr Brown found the allegation against the claimant was proved and that, despite the claimant's mitigation, the appropriate sanction was summary dismissal. This was confirmed in a letter dated 17 January, 2018. The letter is very detailed and purports to answer all of the points raised by the claimant. It also confirms the claimant's entitlement to appeal.

31 The letter sets out the disciplinary offence as approving a payment in star points to Mrs Albiston in order not to impact a colleague's benefits. In cross examination, Mr Brown stated that he found that the claimant was dismissed because of the disparity in the issuing of star points for participating in preparing the Christmas lunch and the fact that Mrs Albiston had not been paid wages for the time worked. The Tribunal was not satisfied that these two versions are necessarily inconsistent. It was satisfied that Mr Brown found

- 31.1 the claimant approved the issuing of star points to Mrs Albiston
- 31.2 Mrs Albiston received more star points than the others involved because she was working outside her clocked hours
- 31.3 Mrs Albiston was not paid wages for her extra hours worked
- 31.4 the claimant did this knowing the circumstances and that it was beneficial to Mrs Albiston in respect of benefits.

32 By a letter dated 31 January, 2018, the claimant appealed against the decision to dismiss her. Her grounds were based on breach of procedure, dispute of facts and severity of the sanction.

33 The appeal was to be heard by Mr Beaumont, a senior director, west Yorkshire, who is senior to Mr Brown. He appeared to be independent and had not had any previous involvement in the subject matter of the appeal. There was not any evidence to suggest that he was instructed or otherwise improperly influenced to reach any particular outcome.

34 The appeal hearing took place on 23 February, 2018, and Mr Beaumont was accompanied by Lisa Leigh, senior manager people, west Yorkshire, who took notes. The claimant was accompanied by Ms Garrett. It is clear that the claimant had been able to prepare for the appeal and was allowed to raise all of the issues that she wished. Mr Beaumont had access to all of the papers that had been used in the disciplinary hearing.

35 The Tribunal was satisfied that the claimant had the opportunity to prepare for the appeal and was able to raise all of the points that she wished. At the hearing, Mr Beaumont discussed the claimant's grounds of appeal with her. He then adjourned the hearing to consider all of the matters that had been raised and to discuss Mr Brown's decision with him. After his discussion and considering the papers, Mr Beaumont was satisfied that Mr Brown had properly considered the relevant matters and had reached the correct decisions. Mr Beaumont was satisfied, and the Tribunal accepted this, that the claimant had issued star points to Mrs Albiston in lieu of wages. He also found that even if this had not affected Mrs Albiston's entitlement to benefits, it was still a

sufficiently serious breach of the ethics policy to warrant a finding of gross misconduct. According, he dismissed the appeal.

36 Mr Beaumont's conclusions are set out in a letter dated 19 March, 2018. The letter is very detailed. Although it is not always clear, the Tribunal was satisfied that Mr Beaumont had reached a conclusion that he was entitled to reach on the basis of the information before and that this information was sufficient for the purpose.

37 The claimant contends that she was unfairly dismissed by the respondent. She contends that the respondent did not have a reasonable belief of the claimant's guilt because, among other things, there had not been a reasonable investigation and there had been procedural irregularities. Further, that the decision to dismiss the claimant was excessive and that a lesser sanction should have been imposed, in any event. The respondent contends that it followed a proper procedure and that it reached decisions that it was entitled to make.

38 Section 98(1) of the Employment Rights Act, 1996, as amended ('the Act) states that:

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."

Conduct is one of the potentially fair reasons set out in subsection (2).

39 Where the reason for dismissal has been established, then the task for the Tribunal is set out at section 98(4) of the Act. That provides:

... 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 the 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.



40 It is well-established law in a case of alleged unfair dismissal that the Tribunal is not entitled to ask itself what it would have done in the circumstances: it is only entitled to ask whether the employer acted reasonably or unreasonably. Also, unless it is considering contributory conduct and/or a procedurally unfair dismissal, the Tribunal is not required to decide whether the claimant did what he/she is alleged to have done. It is only required to decide whether, after an appropriate investigation, the respondent reached a conclusion that it was entitled to reach on the basis of the facts before it and whether the sanction applied was within the band of reasonable responses open to the respondent in the circumstances of the case.

41 The standard of proof in internal disciplinary proceedings of this type is the balance of probability and the respondent is only required to act reasonably. It is not expected that the investigation should reach the standard expected of a criminal investigation and the standard of proof is much lower than the criminal test where there is the need to establish proof beyond reasonable doubt.

42 The procedure followed by the respondent was reasonable and appropriate, if carried out correctly. There is complaint about the delay between the initial report by Mr Welcher and the start of the investigation. During this time, the claimant was on extended sickness absence. Also, ACAS guidelines say that disciplinary action against an employee may be suspended if that employee raises a grievance. The grievance procedure was about to be completed when the disciplinary investigation was commenced and at that time the claimant was considered to be sufficiently recovered to be able to cope with the disciplinary proceedings.

43 Looking at the agreed list of issues

43.1 Was the claimant dismissed for a potentially fair reason pursuant to section 98(2)(b) of the Employment Rights Act, 1996, namely misconduct?

The Tribunal finds that the claimant was dismissed for the principle reason of conduct and this was conceded by the claimant. There is evidence to suggest that the original allegation was raised by someone with whom the claimant had a poor relationship. However, even if the allegation was raised for malicious reasons, there is not any evidence to suggest that this tainted the subsequent investigation and disciplinary process. The investigator and those conducting the disciplinary and appeal hearings were chosen as being independent and there was nothing to suggest that they acted improperly or that attempts were made to fetter their discretion.

43.2 If the claimant was not dismissed for misconduct, was the reason for her dismissal otherwise a fair reason?

Not relevant and withdrawn by the parties.

43.3 Did the respondent act reasonably in treating the claimant's conduct as a sufficient reason for dismissing the claimant in that

- 43.3.1 Did the respondent form a genuine belief that the claimant was guilty of misconduct?

Yes. The Tribunal was satisfied that Mr Brown did form a genuine belief of the claimant's guilt. In respect of the conflicts in the evidence, he was entitled to decide in the way that he did, especially in view of some of the conflicting answers given by the claimant.

- 43.3.2 Did the respondent have reasonable grounds for that belief?

Yes. There was a proper investigation and further enquiries were made by Mr Brown in respect of areas where further information was required.

- 43.3.3 Did the respondent form that belief based on a reasonable investigation in all the circumstances?

Yes. The initial investigation was adequate but was supplemented by additional enquiries made by Mr Brown when further points were put to him.

- 43.4 If the respondent acted reasonably in treating the claimant's conduct as a sufficient reason for dismissing the claimant, was the dismissal of the claimant fair in all the circumstances? In particular, was the claimant's summary dismissal within the band of reasonable responses available to the respondent?

Yes. The claimant's length of service and previous good conduct, which were taken into account by Mr Brown, could have widened the band of reasonable responses but summary dismissal remained at the other end of the band. This was found to be an act of gross misconduct because the claimant failed to comply with the respondent's ethic policy and the effect was found to have benefited another colleague by allowing her family to claim statutory benefits to which she might otherwise not have been entitled. This was something that the respondent was entitled to treat as extremely serious and worthy of summary dismissal.

- 43.5 If the claimant's dismissal is found to be unfair, did the claimant's conduct cause or substantially contribute to her dismissal? If so, by what proportion (if at all) would it be just and equitable to reduce the compensatory award?

The Tribunal did not need to make a finding on this.

- 43.6 If the respondent failed to follow a fair procedure, can the respondent show that following a fair procedure would have made no difference to the decision to dismiss? If so, by what proportion (if at all) would it be just and equitable to reduce the compensatory award?

The Tribunal did not need to make a finding on this.

43.7 Has the claimant taken reasonable steps to mitigate her losses?

The Tribunal did not and did not need to hear evidence on this. Had the Tribunal found in the claimant's favour it would have gone on to hear evidence concerning the possible remedy.

44 The basic facts established by the initial investigation were that Mrs Albiston worked during a period when she was not clocked in because if she had been clocked in this could have affected her family's benefits. She was engaged on work for which other colleagues were paid and for which she would have been paid if she had been clocked in. She then received more star points than other colleagues engaged on the same task but no other form of remuneration or reward, although this could have been arranged. The claimant appeared to have been in charge of the task and had a senior responsibility for the allocation of star points. Could the claimant explain all of this satisfactorily? Her accounts are varied in so far as she can recall what happened. It may well be that Mr Welcher and Ms Oliver's intentions were tainted with malice but there is nothing to suggest that they were untruthful. If Ms Oliver was asked to pay overtime why was this not done, why was nothing recorded about it (presumably some form of paper trail would be needed) and why was it not followed up by the claimant either with Ms Oliver or Mrs Albiston's line manager? There is nothing to suggest that Ms Shadbolt or Mrs Albiston were hostile to the claimant. It seems that Ms Shadbolt may have tried to help the claimant. However, even her evidence differs from that of the claimant especially as to when she says that she told the claimant that Mrs Albiston was working beyond her clocked hours. Mr Brown noted all of the claimant's points and carried out further enquiries. Although the claimant argues that he could have done more, the Tribunal accepted that he had done enough in all of the circumstances. He then reached a conclusion that he was entitled to reach on the basis of the facts before him.

45 With regard to the sanction, Mr Brown says, and this was accepted by the Tribunal, that he did take into account the claimant's length of service and her previous good conduct. However, there had been a serious breach of the ethics policy in that Mrs Albiston was allowed to work unremunerated and nothing had been done to correct this. This of itself is bad enough but the effect was to enable Mrs Albiston's family to keep benefits that it might otherwise have lost. All of this is then compounded by the issuing of additional star points. Even if it cannot be said that this was done deliberately to get round the benefit system, the star points were awarded because Mrs Albiston was not getting any other form of reward, which is contrary to the ethics policy. Whilst it may be that someone else would have awarded a lesser sanction, summary dismissal remains within the band of reasonable responses.

46 The claimant then appealed the decision to dismiss her. She was able to prepare for the hearing and was allowed to raise all of the points that she wished. Mr Beaumont took reasonable steps to consider the claimant's points and his dismissal of her appeal was within the range of decisions open to him on the basis of the information before him.

47 Having regard to the above and to equity and the substantial merits of the case, the Tribunal finds that the claimant was not unfairly dismissed and hers complaint that she was should be dismissed.

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Employment Judge Nicol

Date 8 March, 2019

JUDGMENT AND RESERVED REASONS SENT TO  
THE PARTIES ON

18 March 2019

FOR THE TRIBUNAL

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