EMPLOYMENT TRIBUNALS

Claimant: Mr S Mighall

Respondent: Cammell Laird Shiprepairers and Shipbuilders Limited

Heard at: Liverpool **On:** 25 & 26 April 2019 (in Chambers 21 May 2019)

Before: Employment Judge T Vincent Ryan
Mr M C Smith
Mr A Wells

REPRESENTATION:

Claimant: Mr R. Rixon, Consultant
Respondent: Mr N. Siddall QC

JUDGMENT

The unanimous judgment of the Tribunal is that:

1. The claimant was fairly dismissed by the respondent, for a reason related to his conduct, on 14 March 2018. The claimant's claim that he was unfairly dismissed is not well-founded, fails and is dismissed.

2. The claimant's claim that he was dismissed on grounds related to union membership or activities is not well-founded, fails and is dismissed.

3. The claimant's claim that he was subjected to detriment on grounds related to union membership or activities when his appeal was rejected, is not well-founded, fails and is dismissed.

REASONS

1. **The Issues**

The respondent put forward a written proposed List of Issues which was accepted by the claimant as follows:

1.1 Section 152 Trade union and Labour Relations (Consolidation) Act 1992 (TULRCA) dismissal:

It being admitted that the claimant was dismissed and that his pleaded case disclosed the performance of trade union activities at an appropriate time – was the sole or principal reason for the claimant's dismissal that he had engaged in such trade union activities?

1.2 Section 146 TULRCA detriment:

1.2.1 Is the claimant's detriment claim a valid claim in law or does it fall foul of section 146(5A) TULRCA? (where the worker is an employee and the detriment in question amounts to dismissal the worker may not present a complaint to an Employment Tribunal on the ground that he has been subjected to such detriment in contravention of section 146 TULRCA).

1.2.2 Was the sole or main reason for the refusal of the claimant's appeal that he had engaged in trade union activities?

1.3 Unfair dismissal – section 98 Employment Rights Act 1996:

1.3.1 Did the respondent hold a genuine belief in the claimant's misconduct?

1.3.2 Was that belief held on reasonable grounds after a reasonable investigation?

1.3.3 Was the dismissal of the claimant a reasonable response to the misconduct found?

1.3.4 When assessing the above –

1.3.4.1 Has the claimant been able to identify truly comparable cases where the employees of the respondent were treated differently than was he?

1.3.4.2 Did the respondent draw a rational distinction between the case of the claimant and any other such truly comparable case?

1.3.4.3 Has the respondent been able to identify truly comparable cases where the employees of the respondent were treated the same as the claimant was?

1.4 Remedy Issues:

1.4.1 If the claimant has been unfairly dismissed, would a fair procedure have led to his being fairly dismissed; was there a chance of such a fair dismissal (and if so, what?)

1.4.2 Has the claimant been guilty of culpable and blameworthy conduct such that a reduction in his basic award is just and equitable (and if so, to what extent)?

1.4.3 Has the claimant been guilty of culpable and blameworthy conduct which contributed to his dismissal to any extent leading to a reduction of his compensatory award (and if so, to what extent)?

1.4.4 If successful, what is the value of the claimant's claim for unfair dismissal/detriment?

2. The Facts

2.1 The respondent is a large employer with 765 employees. It has a professional HR Department. It operates several written policies and procedures and it has a handbook available to all employees (page 37 of the trial bundle, to which all other page references relate unless otherwise specified). The respondent has recognition agreements with GMB and Unite trade unions, with each of the trade unions having three Shop Stewards at the material time.

2.2 The claimant was employed by the respondent from 9 April 2010 until his dismissal for gross misconduct on 14 March 2018. The claimant was employed as a Boilermaker Plater in the production and repair of ships. All material times the claimant was a local shop steward for the GMB union.

2.3 In late 2017/early 2018 there was an industrial dispute regarding the duration of a pay deal, which led to a ballot for industrial action. This in turn led to two days of strike action on 26 and 29 January 2018. This strike was supported by both recognised trade unions. The industrial dispute was resolved by management and area officials (not local shop stewards) of both unions via the good officers of ACAS. Subsequently and until the matters giving rise to these proceedings the claimant was not complained about by the respondent and he made no complaint about the situation at work; no action was taken either with regard to formal disciplinary proceedings or informally by way of performance management, counselling or otherwise by the respondent in respect of the other five shop stewards at any time to date. Shortly after resolution of the industrial dispute both the respondent and trade unions issued a statement urging everyone to “move on” as there had been bad feeling generally and some adverse comments between colleagues both in the workplace and on social media. Towards the end of February 2018 the respondent, independently of the trade unions, commenced a poster campaign against bullying, prejudice, racism, harassment, blackmail, discrimination, sexism and intimidation using a lifebelt logo, a copy of which appears at page 117. The Chief Executive Officer was quoted as saying that the respondent is an equal opportunity employer; it was said that there is no place within the respondent company for behaviour such as that described in the campaign, which would not be tolerated in any form. The Tribunal was not entirely satisfied that these posters had

come to the attention of the claimant before the acts of which the respondent complains, and it appears that he may not have seen them. The claimant was aware of the handbook, his responsibilities as a colleague and as a shop steward, and that both management and the union wanted all employees to move on from the bad feeling that had persisted during and around the time of the industrial action.

2.4 By his own admission and as witnessed on CCTV footage, when the claimant attended work on 1 March 2018 he saw graffiti written on a plate which he took to be about him and which he believed had been written by a colleague, RL. His recollection is that the graffiti said, “Shit shop steward”; it had been written in chalk and the claimant erased it, writing instead “come and see me”.

2.5 On Friday 2 March 2018, and because of his feelings towards RL, whom he believed ingratiated himself with the Head of the Steelworks Department (DB) to gain weekend overtime work, the claimant wrote in chalk “this way to birdie – cocksucker Lockwood”. The reference to “birdie” was a reference to the head of the Steelwork Department, DB, and the reference to “Lockwood” was a reference to RL (pages 46 and 47).

2.6 The claimant believed that RL parked his car in a particular car parking space usually occupied by another colleague, and he wanted to make a point to him about it. On 5 March 2018 the claimant again wrote in chalk, this time on a roller, the words “Lockwood, you fucking chancer” (page 49).

2.7 The claimant did not tell RL that he had written the graffiti about him but he did so on his own when there was no-one else around to see it and he walked away leaving those comments there to be found by RL.

2.8 The respondent’s investigation subsequently revealed that RL believed that he had been bullied and intimidated for some time and that he saw each of these three items of graffiti which made him feel bullied and intimidated. He complained to his shop steward, SJ. When he complained, neither he nor SJ realised that the claimant was responsible for the graffiti. SJ in his capacity as RL’s shop steward reported the matter to DB as Head of Department. He reported that this was a serious issue of bullying and so it was understood by both RL, SJ and DB.

2.9 After RL and SJ’s report of bullying, they discovered that the author of the graffiti was none other than the claimant. They then approached PW, of the Personnel Department, to withdraw the complaint. He was reported as saying to PW that he was a friend of the claimant's and it was banter. PW appears to have had reservations about this and she made a detailed note of all that had transpired, which appears at page 50. RL denied ever writing “shit shop steward” in chalk on the plate or roller. PW took a statement from both RL and from SJ concerning the matters raised and the chronology from the date of the complaint to the date of the withdrawal. In these circumstances PW also interviewed the claimant on 5 March 2018 (pages 54-55). She showed him some of the

CCTV footage of the claimant writing graffiti; the claimant accused RL of calling him a "shit steward" in graffiti; he denied writing any comments about RL until he was then shown CCTV footage of the second incident when again he was seen to be writing on a plate or roller. The claimant admitted writing graffiti and says he was motivated because of the car parking incident. The claimant said he was not a friend of RL's and does not speak to him. In these circumstances PW suspended the claimant pending an investigation. The letter of suspension is at page 56 and is dated 5 March 2018. The claimant was suspended on full pay.

2.10 On 8 March 2018 PW wrote to the claimant inviting him to a disciplinary hearing (pages 59-60). Two disciplinary allegations of potential gross misconduct are set out, namely that on Thursday 1 and Friday 2 March 2018 he used offensive, belittling and discriminatory language about a fellow employee and Head of Department on company property, and on the same dates made comments about the fellow employee and Head of Department which amounted to a breach of the company's policies relating to harassment. He was sent the statements of DB, SJ, RL and his own statement as well as still pictures taken from the CCTV coverage. He was asked whether there was any other documentation that he wished to have considered at the disciplinary hearing. He was told that if found guilty of gross misconduct he could be dismissed without pay or pay in lieu of notice and he was reminded of his statutory right to be accompanied.

2.11 In response the claimant prepared a handwritten statement (pages 61-63), and whilst entitled "Litigation" he meant to say "Mitigation". In it the claimant stated that he had been called names in the past, particularly in relation to his having only one eye, a matter he put down to being "banter"; he said it was only a "wind up" of RL and he gave other examples of what he considered to be banter in the shipyard. He also drew management's attention to "soft porn/hard and porn calendars etc in the foreman's office" and on a noticeboard. There is a noticeboard at the shipyard that has news cuttings and various pictures referring to members of personnel in what could be seen as a derogatory manner but which was apparently taken by all concerned to be light-hearted. The claimant confirmed that he was not offended by any remarks ever made to him or the use of bad language in the workplace or sight of the calendars in the foreman's office, all of which he accepted as part and parcel of routine work life. He did not feel bullied, intimidated or offended by any of it and never made any complaint or raised a grievance in respect of it.

2.12 The disciplinary hearing was chaired by Mr Neil McLaughlin. The claimant was represented by AMG of the GMB union, and SJ was also in attendance. The notes of the disciplinary hearing are at pages 64-69 and at pages 72-73. He admitted writing graffiti about RL and said that he had made a mistake but he wanted "to make it right". He referred to what he considered to be banter and made further reference to the "porn all over the place". He apologised.

2.13 The meeting was adjourned and scheduled to reconvene on 14 March 2018 so that Mr McLaughlin could consider all the facts and reach an outcome. The meeting reconvened so that he could announce that his decision was that the claimant should be dismissed for gross misconduct and that his employment would be terminated summarily. The effective date of termination was 14 March 2018. Mr McLaughlin confirmed the decision and his rationale in a letter of that date that appears at pages 75-76. At page 76, being the second page of the letter, Mr McLaughlin confirmed that he considered the claimant's comments about RL to be gratuitously offensive, belittling and sexually explicit in circumstances where there was no suggestion they were part of an ongoing joke, and that his "very unpleasant" suggestion was aimed at two individuals relating to alleged preferential treatment for sexual favours which was deliberate premeditated and repeated action intended to cause offence, embarrassment and to undermine the Head of the department. Having considered all the circumstances including the claimant's mitigation he concluded that these examples amounted to unacceptable harassment. The Tribunal finds that Mr McLaughlin acted diligently and conscientiously in considering his decision and accurately reflected his rationale in the dismissal letter.

2.14 Notwithstanding that RL said he was withdrawing the complaint the respondent, specifically Mr McLaughlin, considered that the matter was so serious for all the reasons stated in the dismissal letter that it was appropriate to proceed. The conduct was a matter of concern to the respondent even though RL indicated that he did not want further action taken. Action was taken on the basis that initially RL had been upset and even his shop steward, SJ, considered this to be a serious issue of bullying; so it seemed to Mr McLaughlin and the tribunal accepted his witness evidence as being truthful and reliable.

2.15 The claimant was not dismissed for any reason related to his trade union membership, office or activities. He was not dismissed for his part in the industrial dispute or industrial action described above.

2.16 The claimant appealed against the decision to dismiss him by a letter dated 19 March 2018 (pages 82-83). He set out therein several points of appeal and was thereafter invited to an appeal hearing by a letter dated 23 March 2018 (page 84). AMG, as regional organiser of GMB, wrote to the respondent's Managing Director on 15 March complaining about the dismissal. In those circumstances and in view of the nature of the complaint Mr Ian Serjent, a non-Executive Director, was appointed as appeals officer. The appeal hearing took place on 28 March 2018 before Mr Serjent, when again AMG and SJ appeared as representatives for the claimant, and the minutes are at pages 86-95 in manuscript and pages 96-107 in typed version. The minutes of all meetings are accurate, as was confirmed by the claimant at the outset of cross examination.

2.17 The claimant and his representatives put forward his explanation, defence and mitigation, all of which was duly considered by Mr Serjent, who read all the investigation documentation and he investigated and reviewed all the issues raised by the claimant both in relation to the

original investigation and the disciplinary hearing. Mr Serjent's outcome letter is at pages 110-115, and the Tribunal finds having heard from Mr Serjent that it is a true reflection of his considerations, rationale and outcome. He considered, having taken into account all of the claimant's appeal points, that the claimant's conduct was deliberate, singling out a work colleague and undermining a manager which had been planned in advance and was intended to be offensive. He did not consider that this was a case of a joke having gone wrong. Mr Serjent clearly understood and appreciated that "industrial language" was used, and inappropriate calendars were on display; he concluded however that graffiti coming from the claimant to RL was inappropriate and overstepped the line of acceptable humour or banter. The Tribunal found Mr Serjent to be a conscientious and diligent witness; the tribunal accepted his witness evidence as being truthful and reliable. The appeal was dismissed.

2.18 The Tribunal finds as a fact that the claimant's trade union membership, office and activity had no bearing on the conduct of the disciplinary proceedings, including the appeal by the respondent, and specifically on Mr McLaughlin's outcome; the industrial dispute and action was irrelevant to Mr Serjent's deliberations and decision to dismiss the appeal.

3. **The Law**

3.1 Section 152 TULRCA provides that a dismissal shall be regarded as unfair if the reason for it (or if more than one the principal reason) was that the employee was or proposed to become a member of an independent trade union or had taken part or proposed to take part in the activities of an independent trade union at an appropriate time (amongst other things).

3.2 Section 146 TULRCA gives a worker the right not to be subjected to any detriment by his or her employer related to union membership or activities, except where the worker is an employee and the detriment in question amounts to dismissal.

3.3 Section 94 Employment Rights Act 1996 (ERA) states that an employee has the right not to be unfairly dismissed, while s.98 ERA sets out what is meant by fairness in this context in general. Section 98(2) ERA lists the potentially fair reasons for an employee's dismissal, and these reasons include reasons related to the conduct of the employee (s.98(2)(b) ERA). Section 98(4) provides that once an employer has fulfilled the requirement to show that the dismissal was for a potentially fair reason the Tribunal must determine whether in all the circumstances the employer acted reasonably in treating that reason as sufficient reason for dismissal (determined in accordance with equity and the substantial merits of the case).

3.4 Case law has provided guidance but is not a substitute for the statutory provisions which are to be applied. Case law provides that the essential terms of enquiry for the Employment Tribunal are whether, in all the circumstances, the employer carried out a reasonable investigation and,

at the time of dismissal, genuinely believed on reasonable grounds that the employee was guilty of misconduct. If satisfied of the employer's fair conduct of the dismissal in those respects, the Employment Tribunal then must decide whether the dismissal of the employee was a reasonable response to the misconduct. The Tribunal must determine whether, in all the circumstances, the decision to dismiss fell within the band of reasonable responses of a reasonable employer; if it falls within the band the dismissal is fair but if it does not then the dismissal is unfair.

3.5 Questions of procedural fairness and reasonableness of the sanction (dismissal) are to be determined by reference to the range of reasonable responses test also (**Sainsbury's Supermarkets Ltd v Hitt [2002] EWCA Civ 1588** and **Iceland Frozen Foods Ltd v Jones [1983] ICR 17**).

3.6 The Tribunal must not substitute its judgment for that of the employer, finding in effect what it would have done, what its preferred sanction would have been if it, the Tribunal, had been the employer; that is not a consideration. The test is one of objectively assessed reasonableness. **In *Secretary of State for Justice v Lown*** **[2016] IRLR 22** , amongst many others, it was emphasised how a tribunal can err in law by adopting a "substitution mindset"; the point was made in **Lown** that the band of reasonable responses is not limited to that which a reasonable employer might have done. The question was whether what this employer did fell within the range of reasonable responses. Tribunals must asses the band of reasonable responses open to an employer, and decide whether a respondent's actions fell inside or outside that band, but they must not attempt to lay down what they consider to be the only permissible standard of a reasonable employer.

4. Application of Law to Facts

4.1 It was clear from the evidence of both the dismissing and appeals officers that they took a conscientious and diligent approach to their consideration of the facts before them, including the nature of the repeated graffiti and the circumstances of the claimant writing it, the immediate effect that this had upon RL, the seriousness with which it was treated by RL, SJ and DB and what appeared to be PW's concern at the withdrawal of the allegation somewhat belatedly. In all the circumstances both the disciplinary and appeals officers were convincing in their evidence when they said that they felt these examples went beyond what the claimant considered was merely banter and that he had in fact overstepped the line repeatedly.

4.2 The Tribunal was also struck by the frank acceptance by both the disciplining and appeals officers of the industrial environment in which it was accepted that the standards of discourse and display of pictures could in some circumstances have led the employees to believe that the standards were relaxed. They clearly took this into account.

4.3 Albeit there was an apparent relaxed attitude regarding the display of some calendars and an employee noticeboard, nevertheless the

respondent had in the recent past dismissed or otherwise disciplined, up to and including a final written warning, employees whose conduct towards their colleagues fell below an acceptable standard and again overstepped the mark for innocent and tolerable banter. There was no evidence that anybody had complained about the employee noticeboard will be display of calendars or indeed that anybody found them to be offensive or inappropriate; they were not considered by the employees to amount to serious issues of bullying. There is evidence in the trial bundle indicating that where personal comments were deemed to have been taken too far then the respondent would take disciplinary action up to and including dismissal.

4.4 The Tribunal accepted that the disciplining and appeals officers differentiated the claimant's conduct from tolerable banter for all the reasons that they stated in their respective outcome letters. In this regard their considerations were consistent with the respondent's efforts to improve relationships within the workforce, its anti-harassment campaign, and indeed the earlier actions it had taken in respect of transgressing employees who had been disciplined.

4.5 In the circumstances described above the Tribunal did not consider that the dismissal was inconsistent or that in any sense the claimant can have been lulled into a false sense of security that his actions were tolerable. The initial response of the complainant RL was that he felt bullied and intimidated and this was supported by his union representative at the time who considered this to be a serious matter of bullying. Notwithstanding the withdrawal of the complaint, therefore, the respondent was entitled to take the matter further.

4.6 Understandably and with some good effect Mr Rixon concentrated in his cross examination of the disciplining and appeals officers on whether or not the comments made were truly discriminatory; "discriminatory" being one of the words used in the disciplinary charge. He also felt that there was inadequate investigation into whether either RL or DD considered the language to be "belittling" and at this specific part of the disciplinary charge was not adequately put to the claimant. He felt that the matter of discrimination had not been properly put to the claimant and that in truth neither the disciplinary officer nor the appeals officer really thought that there was any element of sex or sexual orientation discrimination involved; the expressions used were just vulgar common parlance. The Tribunal was not convinced that either of the officers involved gave much consideration to issues of unlawful discrimination. Their emphasis was on the offensive nature of the comments and the suggestion of sexual favours for favourable overtime hours, which impugned the reputations of both RL and DB. In particular, however, their decision was based on the repeated gratuitous use of abusive and offensive language in circumstances that each respectively described in their outcome letters. The claimant knew full well throughout the investigation, disciplinary hearing and appeals hearing what it was that concerned the respondent and the reasoning of the respondent's officers in reaching their conclusions; he was represented throughout the proceedings and he

answered the charges and questions put to him in full knowledge of the matters of concern related to his conduct. There was no apparent unfairness to him such that he was in any respect disadvantaged in the way that the respondent's allegations were put to him and he was given an opportunity to answer them. Mr Rixon's points were well made albeit they were forensically legalistic. The tribunal was not tasked to look retrospectively at the investigation and disciplinary proceedings in such a technical sense but rather to consider whether the respondent acted fairly and reasonably in all the circumstances; we must consider whether there was any unfairness and injustice to the claimant and we found none, notwithstanding Mr Rixon submission.

4.7 The Tribunal also took cognisance of the fact of fairly low or relaxed standards of daily discourse between some of the employees on the site and their acceptance of matters such as the noticeboard and the graphic calendars. That said, the conscientious and diligent reasoning of the disciplining and appeals officers still put the claimant's conduct at such a level that it fell in a band whereby dismissal would be considered by a reasonable employer. In fact, we felt that very many reasonable employers would dismiss for this conduct; we certainly could not say that no reasonable employer would dismiss. We understand the claimant to feel that dismissal was harsh but the Tribunal cannot substitute its judgment for that of the respondent by saying that this dismissal was so harsh as to be unfair.

4.8 There is absolutely no evidence to support the claimant's suggestion that the dismissal or the rejection of his appeal was in any sense related to his trade union membership or activities or involvement in industrial action. The evidence in fact shows that those factors were irrelevant.

4.9 The claimant admitted writing the graffiti in question. There is no doubt that the initial response of RL was that he was concerned or distressed by what he considered to be serious repeated bullying. This was discovered on investigation even though the complaint was later withdrawn. It had however been noted and all appropriate witness statements were disclosed to the claimant, including notifying him of the withdrawal of the complaint. The claimant was represented at all times by his trade union, including by an area official. He was given due notice of all hearings and given adequate time to prepare and the documentation upon which to prepare. At all times the claimant was aware of the allegations against him and the potential implications of the disciplinary proceedings. His mitigating circumstances were considered including his length of service and disciplinary record and his written statement in mitigation. The claimant was given an opportunity to appeal, which he did in some detail in writing. The appeal was addressed comprehensively and all appeal points duly considered.

4.10 The Tribunal did not find any unfairness to the claimant, whose principal argument came down therefore to one of alleged harshness of the decision where he said bad language was used in circumstances that he personally never took offence at matters such as those which he made against RL. Nevertheless, the conduct of which the claimant was

accused is clearly envisaged and encompassed by the handbook and disciplinary proceedings and it was apparent that some effort had been made by the respondent regarding his former colleagues to discipline even to the point of dismissing where employees overstepped the line of tolerable conduct.

4.11 Regarding the specific issues agreed by the parties, the Tribunal responds as follows:

4.11.1 Section 152 TULRCA dismissal:

It being admitted that the claimant was dismissed and that his pleaded case disclosed the performance of trade union activities at an appropriate time – was the sole or principal reason for the claimant's dismissal that he had engaged in such trade union activities? No. The sole reason for dismissal was the claimant's misconduct.

4.11.2 Section 146 detriment:

4.11.2.1 *Is the claimant's detriment claim a valid claim in law or does it fall foul of section section 146(5A) TULRCA? (where the worker is an employee and the detriment in question amounts to dismissal the worker may not present a complaint to an Employment Tribunal on the ground that he has been subjected to such detriment in contravention of section 146 TULRCA).* We did not have to decide this point, potentially having much wider application, because of our finding below.

4.11.2.2 *Was the sole or main reason for the refusal of the claimant's appeal that he had engaged in trade union activities?* No. The appeal failed for the reasons stated in the appeal outcome letter.

4.11.3 Unfair dismissal – section 98 Employment Rights Act 1996:

4.11.3.1 *Did the respondent hold a genuine belief in the claimant's misconduct?* Yes. The claimant's conduct was admitted. The issue was whether that conduct was innocent jocular banter or amounted to serious bullying by the use of offensive and belittling language and/or harassment. The respondent formed the opinion that it was the latter and it was not acceptable.

4.11.3.2 *Was that belief held on reasonable grounds after a reasonable investigation?* Yes. BW conducted an investigation which was properly considered by the disciplinary and appeals officers also conducted investigations during the course of their separate respective deliberations. Their respective findings bear out the reasonableness of the investigation.

4.11.3.3 *Was the dismissal of the claimant a reasonable response to the misconduct found?* Yes. The tribunal concluded that a reasonable employer could, and many would, dismiss an employee on the grounds relied upon by this respondent.

4.11.3.4 When assessing the above –

4.11.3.4.1 *Has the claimant been able to identify truly comparable cases where the employees of the respondent were treated differently than was he?* No. The claimant identified instances of language that in many contexts would be considered to be offensive and the display of a noticeboard and calendars that in other contexts may well be considered offensive. His evidence however was that neither he nor his colleagues found them to be so. Both RL and SJ complained about the claimant's graffiti because they considered it to be offensive and a serious matter of bullying, a view shared by the respondent. The claimant refers to social media insults but did not satisfy the tribunal that they amounted to a truly comparable situation to his own and in any event the respondent produced evidence of disciplinary action having been taken. We were not given evidence to establish that the cases were entirely on all fours. It was not any part of our remit to reconsider disciplinary action taken by the respondent in respect of the comparators where disciplinary outcomes appeared in the trial bundle

4.11.3.4.2 *Did the respondent draw a rational distinction between the case of the claimant and any other such truly comparable case?* There were no "truly comparable" cases; the respondent did draw a rational distinction between the claimant's case and those others to which we were referred.

4.11.3.4.3 *Has the respondent been able to identify truly comparable cases where the employees of the respondent were treated the same as the claimant was?* Insofar as there were any comparable

cases the respondent has been able to identify that the treatment of the claimant appears consistent with the treatment of those other employees.

Employment Judge T Vincent Ryan

Date: 24.05.19

RESERVED JUDGMENT AND REASONS
SENT TO THE PARTIES ON

30 May 2019

FOR THE TRIBUNAL OFFICE