**Case No: 2203444/2019**

# EMPLOYMENT TRIBUNALS

**Claimant:** **Mr R Lewis**

**Respondent:** **Incentive Lynx Security Limited**

**Heard at:** **London Central** **On: 30 November and 1 December 2020**

**Before:** **Employment Judge Davidson**
**Ms T Breslin**
**Mrs N Sandler**

**Representation**
Claimant: in person
Respondent: Mr C Adjei, Counsel

# JUDGMENT

**The claimant's complaints of unfair dismissal, direct race discrimination, victimisation and whistleblowing fail and are hereby dismissed.**

Employment Judge Davidson

Date 15 December 2020

JUDGMENT SENT TO THE PARTIES ON

16/12/20

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FOR EMPLOYMENT TRIBUNALS

# REASONS

Issues

1. The issues in the case had been set out at a preliminary hearing before Employment Judge Burns on 29 May 2020 and comprised an unfair dismissal claim and a claim for direct race discrimination. At the start of the hearing, the claimant applied to amend his claim to include victimisation and whistleblowing claims. After hearing representations from both parties, the amendments were allowed in part.

2. Following this application, the issues before the tribunal were agreed to be as follows:

   *Unfair Dismissal*

   2.1. Was the claimant unfairly dismissed in that the respondent had predetermined the issue prior to the disciplinary process?

   2.2. Was the sanction of dismissal too severe?

   *Direct Race Discrimination*

   2.3. Was the claimant discriminated on the grounds of his race (black Caribbean) by

   a) Being suspended on 26 November 2018 compared to how Bikash Gurung (a Duty Manager) was dealt with on 23 June 2019 (no suspension) after the claimant's complaint about him.
   b) Issues regarding a CCTV licence between February and August 2019
   c) Being dismissed?

   *Victimisation*

   2.4. Was the claimant victimised after having raised a grievance in January 2018 in that

   a) the respondent attempted to replace him on two occasions
   b) he was dismissed?

   *Whistleblowing*

   2.5. Was the claimant dismissed because he made a protected disclosure?

   *Time*

   2.6. Are the claimant's claims within time?

Evidence

3. The tribunal had before it the following evidence:

   3.1. Oral evidence from John Mansfield (Business and Resource Manager), Eugene Jonas (Regional Manager), Simon Morrison (Regional Director) and Sarah Gatland (HR Support) on behalf of the Respondent and from the claimant on his own behalf.

   3.2. The claimant submitted witness statements from Irfan Khan (Security Controller), David Billings (former Deputy Security Manager) and John Berritt (former Duty Shift Manager) but none of his witnesses were able to attend and the claimant was not able to arrange for their evidence to be given remotely. We took this into account when deciding what weight to give to this evidence.

   3.3. The tribunal had an agreed bundle of approximately 240 pages. During the hearing, the claimant produced his own bundles comprising some documents that were in the bundle and others which had been disclosed to him by the respondent but which had not been included in the bundle.

Facts

4. The tribunal found the following facts on the balance of probabilities.

   4.1. The respondent operates contracts to provide security services for buildings, including the Leadenhall Building in the City of London. The Leadenhall Building was its most important client. The claimant joined the respondent in August 2015 as a security officer working at the Leadenhall Building.

   4.2. In April 2017, the client wanted to remove the claimant from site. Simon Morrison met with the client and was not satisfied that the client had a valid reason and so refused to comply with the request.

   4.3. After he had been in post for some months, the claimant wanted to be promoted to be a supervisor and he let his manager know. He found out that there had been vacancies which he had not been told about. There were other vacancies which he applied for and his applications were simply ignored or were unsuccessful. As a result, in January 2018, the claimant brought a grievance complaining about his treatment and alleging discrimination on the grounds that the Asian manager (Naz) had promoted only Asian members of staff. This is the claimant's protected act for the purpose of his victimisation claim.

   4.4. Eugene Jonas investigated the grievance and upheld the claimant's complaints, other than the allegation of discrimination. He investigated the allegation and could find no evidence that all the other employees had been Asian. By that time Naz and the other manager had both left

and not all the records were available to Eugene Jonas. He felt unable to make a finding of discrimination on the evidence before him.

4.5. Following the grievance outcome, Eugene Jonas encouraged the new manager to consider the claimant's application on its merits. The claimant was promoted shortly afterwards.

4.6. The respondent operated at this site with four Duty Shift Managers (DSMs). In July 2018, two new DSMs were recruited, one of whom was John Berritt. They understood that they were being brought in to replace both a DSM who had been dismissed and the claimant, who was being removed at the client's request. This is denied by the respondent, who explains the over-recruitment as a clerical error. In the end, five DSMs worked together until one of the new recruits failed probation and there were then four DSMs again. This process was managed by John Ford, the Manager at the time. The claimant and John Berritt agreed to work nights on a permanent basis which does not support the claimant's contention that John Berritt was recruited to replace him. We find no evidence that the respondent intended to get rid of the claimant. In reaching this finding, we note that he had just been promoted and that he remained in post even when the position was overmanned.

4.7. In November 2018 Bikash Gurung notified the manager, Nick Archbold that he had arrived on duty to find that the claimant had left his shift early. Nick Archbold consulted Sarah Gatland, who consulted her manager, and they decided that the claimant should be suspended pending an investigation. On 26 November, Nick Archbold informed the claimant of his suspension in front of the claimant's colleagues and the claimant was asked to leave the property immediately.

4.8. We were told that the reasons for the suspension were the risk that the claimant might alter the evidence as he had access to the respondent's records and CCTV and in order to be consistent with action taken in other cases.

4.9. Following the suspension, Nick Archbold asked David Billings to carry out the investigation. He discussed with Sarah Gatland whether it was appropriate for David Billings to conduct the investigation in the light of his friendship with the claimant. Having considered the option of having two people conduct it, Nick Archbold decided, in the end, for David Billings to deal with it alone with Sarah Gatland present to take notes.

4.10. At the investigation, the claimant did not deny the allegation but pointed out that this was a widespread practice. On further investigation of CCTV over the previous month, David Billings found another DSM who was leaving early (John Berritt). David Billings decided to issue a letter of concern to the claimant and John Berritt but

to take no further action. Sarah Gatland queried that decision because the evidence against the claimant was compelling and his contention of the practice being widespread was not supported by CCTV evidence. She thought it would be appropriate to commence disciplinary action against the claimant and John Berritt. However, she was not the decision maker. The decision maker, David Billings, took a different view and instructed her to prepare letters of concern and to lift the claimant's suspension.

4.11. In April 2019, the respondent carried out a routine out-of-hours fire drill while the claimant was on duty, following which a number of shortcomings in relation to the claimant's handling of the process were identified. Nick Archbold sent an email on 2 April 2019 to Simon Morrison outlining the various issues which had arisen. As part of this email, Nick Archbold said '*This is despite my leaving an idiot's guide on the handover*'. The claimant saw this email as part of his subject access request and interpreted Nick Archbold's comments as calling him an 'idiot'. In evidence before the tribunal, Simon Morrison explained his understanding that Nick Archbold was referring to a document in which instructions are is set out in simplified steps, commonly called an 'Idiot's Guide'. We accept and agree with Simon Morrison's interpretation and do not find that there was any intention to use a derogatory term about the claimant.

4.12. On 15 May 2019, the claimant raised a grievance to John Mansfield regarding training issues following on from the fire drill. The grievance did not include any allegation of race discrimination. John Mansfield held a grievance interview on 7 June 2019 and the claimant was accompanied by his trade union representative. One of the issues he raised was his view that the respondent was trying to get rid of him when John Berritt was appointed and also when another DSM, Matt Sobkowiak joined the team. The claimant suggested that the respondent had wanted to remove him in July 2018 because of lack of experience. John Mansfield explained that the reason for an extra DSM being recruited was incompetence on the part of management. He also explained that Matt Sobkowiak had been brought into for training and it was human error that he was not on the training roster. The grievance outcome letter answered the claimant's concerns and reassured him that he was not being targeted or being treated less favourably than his colleagues. He did not appeal the grievance outcome. At the conclusion of the grievance, John Mansfield offered that the claimant could contact him in future if he was uncomfortable about raising issues with people on site.

4.13. On 23 June 2019 the claimant became aware that Bikash Gurung had allowed access to Norris, a security guard employed by Aon, (a tenant of the building), to a viewing floor which was a restricted access area. Having originally declined Norris's request, Bikash Gurung subsequently opened up access to Norris' pass number when he

turned up with his family and made a special plea to be allowed access to show them the view. Bikash Gurung forgot subsequently to cancel the access and this is how the matter came to light.

4.14. The claimant raised this with Tony Lyle, the Manager at the time. Tony Lyle did not reply, nor did anyone from the respondent and the claimant then forwarded his concern directly to the client on 1 July 2019, copying in the respondent. This prompted an interview with Bikash Gurung who explained the circumstances and accepted responsibility, apologising and promising it would not happen again.

4.15. Shortly before the claimant forwarded his concerns about Bikash Gurung to the client, he had been suspended following an incident on 28 June 2019. The claimant was on the night shift, having returned from sick leave that day. Two youths on bicycles cycled down the bicycle ramp into the underground car park of the building, gaining access through the gates which had been opened to allow a bicycle to leave. The youths were unable to get through the second set of gates and attempted to leave through the gates they had come through. The claimant saw on the CCTV that the youths were caught between the gates and went down to investigate. His evidence was that, after checking that the bicycles belonged to them and had not been stolen from the car park, he was about to let them go when he received information from a neighbouring business (the Multiplex) that the youths had been seen hanging around the area. The claimant then detained them for a further period until calling the police. They were detained for a total of 38 minutes.

4.16. We were told that security officers do not have the right to detain people unless they are suspected of having committed an indictable offence. It is not for security guards to investigate crimes as this is for the police and the protocol is for security guards to call the police at the earliest opportunity.

4.17. At this time, there was a Notice of Injunction which the owners of the building had taken out to prevent anyone from climbing on the building or entering the basement area. We were told that this was in response to urban climbers, who have targeted this building in the past.

4.18. The claimant submitted an incident report setting out the details of the incident. He had used a previous report as a template and had failed to update the front-page information, which still stated that the security breach related to a '*building infiltration by seven youths from urban climbing fraternity'*. The form was sent to managers and the client. The Security Manager, John Minnis, then investigated the incident and the security staff who were involved.

4.19. Following receipt of the incident form, John Minnis contacted the claimant by phone and suspended him with effect from 17.30 on 1 July 2019. The suspension was followed up by an invitation to an investigatory meeting to discuss the allegations that the security breach had not been managed appropriately and that the subsequent paperwork was not accurate.

4.20. John Minnis conducted the interview on 8 July 2019 and the claimant gave his account of events. He maintained that he had the right to detain the youths although he was unable to identify any indictable offence. He also relied on the terms of the injunction. He then admitted that he did not know what was in the injunction. He also claimed not to have been trained on detention protocols but Mr Minnis did not accept this to be the case as it is part of standard SIA (Security Industry Authority) training.

4.21. At the conclusion of the investigation Mr Minnis recommended that both the claimant and the other officer involved should be dealt with under the disciplinary procedure. Eugene Jonas, who works in a different region, was asked to conduct the disciplinary hearing to answer seven allegations as follows:

a) *That you detained two youths without legal authority to do so. This represents a concern in that you have brought your employer into disrepute with the Client and could have embarrassed the Client from a public relations perspective. This allegation, if proven, constitutes an act of gross misconduct within the terms of the Company's disciplinary procedure.*
b) *That you failed to monitor CCTV as directed to do so when persons entering or leaving the building via the basement ramp out of hours. This action represents a neglect of duty and therefore this allegation, if proven, constitutes an act of serious misconduct within the Company's disciplinary procedure.*
c) *That you failed to provide an Officer with appropriate PPE (building radio) before sending them out to post. This action represents a neglect of duty and therefore this allegation, if proven, constitutes an act of serious misconduct within the Company's disciplinary procedure.*
d) *That you sent an incident report on the wrong form and with incorrect details to the Building Management Team and your supervisors. This action represents a neglect of duty and therefore this allegation, if proven, constitutes an act of serious misconduct within the Company's disciplinary procedure. In addition, incorrectly reporting the details of the incident to the Client has brought your employer into disrepute with the Client. This allegation, if proven, constitutes an act of gross misconduct within the Company's disciplinary procedure.*
e) *That you changed a previous report and therefore deleted the correct details of that incident. This action represents a neglect*

*of duty and therefore this allegation, if proven, constitutes an act of serious misconduct within the Company's disciplinary procedure.*

*f) That you left the control room in the charge of an officer who is not trained to manage that function. This action represents a neglect of duty and therefore this allegation, if proven, constitutes an act of serious misconduct within the Company's disciplinary procedure.*

*g) Failing to follow process by ensuring the system was updated with details of the incident. This action represents a neglect of duty and therefore this allegation, if proven, constitutes an act of serious misconduct within the Company's disciplinary procedure.*

4.22. The disciplinary hearing was held on 8 August to consider these allegations. The claimant was accompanied by a trade union representative. The allegations were put to the claimant and he repeated his account of the incident, maintaining that he was unaware of their age, that he had the right to detain them due to the terms of the injunction and that he did not release them because of the information he had received from the Multiplex, at which point he called the police.

4.23. In mitigation the claimant pointed out that he had returned from sick leave that day. He was not well but, as he had exhausted his holiday entitlement and could not afford to go on to SSP, he had attended for work despite not being well. He accepted that he had declined a 'Return to Work' interview but he did go through a welfare interview with Matt Sobkowiak at which he made no comment about not being fit to work.

4.24. Following the disciplinary meeting, Eugene Jonas considered all the evidence including the claimant's explanation and his mitigating factors. He found that allegation 1 had been made out and that this constituted gross misconduct. He also found that allegation 3 was made out and amounted to serious misconduct. He did not take any action in relation to the other allegations. The claimant was the right to appeal, which he did by email dated 23 August 2019 alleging unfair dismissal and discrimination.

4.25. The appeal was conducted on 4 September 2019 by Simon Morrison and was adjourned part way through to allow the claimant to clarify his grounds of appeal and to review various documents. The meeting reconvened on 13 September 2019 and it was established that the grounds of appeal were as follows:

a) the claimant was not fully fit to return to work but was forced back because the respondent refused to pay him for additional leave;

b) he was not made aware of the terms of the injunction and how it related to members of the public at the building;

c) he had not been given any training;

d) the decision to dismiss him was premeditated.

4.26. During the course of the hearing, other issues came to light:

a) the claimant alleged he had been less favourably treated than Bikash Gurung;

b) issues relating to the CCTV licence.

4.27. The facts relating to the CCTV licence are as follows: in April 2019, the claimant completed a CCTV training course and asked his manager to complete the paperwork so that he could get his CCTV licence from the SIA. This required the claimant and Lorraine Sillwood (Screening and Vetting Co-ordinator) to create a linked account, which was done in May 2019. Lorraine Sillwood provided this administrative role for 800-1000 security guards. The claimant was then required to complete and return a consent form so that the respondent could progress the application. The claimant states that he left this form on Tony Lyle's desk, but Tony Lyle denies ever receiving it. The claimant asked Tony Lyle about his application on 20 June and Tony Lyle told him it was with the SIA, as he thought it was although this was not the case. Lorraine Sillwood chased Tony Lyle on 25 June 2019 as she had not yet received the consent form and Tony Lyle forwarded this for the claimant's attention. The claimant took no action because he was under the impression that the application was with the SIA based on what Tony Lyle had told him a few days earlier and he read the email as Lorraine Sillwood following up with Tony Lyle to see if the licence had been granted yet. In August 2019, the application was cancelled by the SIA because it had not been progressed.

4.28. Following the hearing Simon Morrison came to the following conclusions in reaching the decision to dismiss his appeal and uphold the decision to dismiss him for gross misconduct.

a) He did not accept that the claimant's fitness for work was relevant in that it was his decision to return before the expiry of his sick note and, when asked in a welfare interview, identified no ill-health issues. Further, he did not identify any impact his health had on the incident which led to his dismissal. The claimant had not been refused holiday entitlement to cover his sick leave, as he had suggested, but had exceeded his annual holiday allowance by four days at that point.

b) As regards the injunction, a copy had been available for the claimant to read. In any event, the claimant did not recall relying on the injunction as the reason to detain the youths. The terms of the injunction would not have given him the right to detain the youths for over half an hour before calling the police even if he had read and understood the terms.

c) The claimant accepted that he had been trained by a colleague, Irfan Khan. Simon Morrison was also aware that he would have received mandatory training on detaining members of the pubic in order to get his SIA licence.

d) Simon Morrison found no evidence that the decision to dismiss the claimant was premeditated. The claimant committed the act of detaining the two youths without authority, thus bringing the respondent into disrepute with the client. This is not something the respondent could have pre-planned. Simon Morrison also noted that a fair investigation and disciplinary process had been followed.

e) Simon Morrison concluded that the claimant's race had played no part in the decision to dismiss the claimant.

f) Simon Morrison went on to consider the other matters raised by the claimant and found that the decision to suspend the claimant in November 2018 was in accordance with the claimant's normal procedure and was not surprising. Simon Morrison accepted that Bikash Gurung should not have been informed that it was the claimant who had reported him but regarded this as a genuine mistake. He did not find that there was any discrimination in the way the two matters had been dealt with, relying on the fact that neither led to any disciplinary action.

g) Simon Morrison concluded that the CCTV application timed out because the claimant was required to complete a consent form and he either misunderstood or ignored the email reminding him of this. He concluded that there was no evidence that Tony Lyle had discarded the consent form, as alleged by the claimant, or that there was any discrimination by reason of his race or otherwise nor was there any deliberate campaign or intention not to process his licence.

4.29. At the hearing, the claimant relied on a document showing the respondent's 'team lists' which did not include the claimant. It is unclear exactly what date the document relates to. The claimant said it was sent to him by John Berritt on 29 July 2019 with the message '*Looks like they got rid of u mate'*. The claimant relies on this as evidence that he was 'removed from the records' prior to the disciplinary hearing and that this is evidence that this was prejudged. He referred to other records from which he was removed but was

unable to produce any evidence of this. On 29 July 2019 the claimant was on suspension pending the disciplinary hearing. John Berritt was no longer employed at this date, having left the respondent in June 2019.

4.30. In any event, there is no evidence that the decision maker, Eugene Jonas, was aware of any of this since he worked in a different region.

Law

5. The relevant law is as follows:

*Unfair dismissal*

5.1. An employee with more than two years' service has the right not to be unfairly dismissed. This means that the employer must have a valid reason and must act reasonably in treating that reason as sufficient grounds for dismissal. The respondent relies on misconduct as the reason for dismissal. The claimant does not accept that this is the reason and, additionally, contends that dismissal was too severe a sanction.

*Direct Race Discrimination*

5.2. It is discriminatory to treat an employee unfavourably because of his race (Section 18 Equality Act 2010).

5.3. If there are facts from which the tribunal could decide in the absence of any other explanation that a person contravened the discrimination provisions, the tribunal must hold that there has been a contravention unless that person can show that they have not contravened the provision

*Victimisation*

5.4. A person victimises another if they subject that other person to a detriment on the grounds that they had raised a complaint of discrimination.

*Whistleblowing*

5.5. A person who has made a protected disclosure has the right not to be subjected to a detriment or dismissed on those grounds.

a) A qualifying disclosure is a disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the designated types of wrongdoing set out in section 43(1) ERA.
b) A worker must not be subjected to a detriment on the grounds she has made a protected disclosure (section 47B ERA). A detriment must be more than an unjustified grievance.
c) A dismissal on grounds that the employee has made a protected disclosure is automatically unfair (section 103A ERA).

Determination of the Issues

6. We unanimously determine the issues as follows:

*6.1. Was the claimant unfairly dismissed in that the respondent had predetermined the issue prior to the disciplinary process?*

The only grounds on which the claimant challenges the fairness of the dismissal is that respondent had predetermined the issue prior to the disciplinary process and that the dismissal was too severe given the nature of the offence.

Over the course of the claimant's employment, he has raised grievances and on one occasion was suspended prior to an informal interview. We find that his grievances were dealt with fairly and comprehensively, being upheld where appropriate. The informal investigation after the suspension led to no formal disciplinary action. There was also an occasion in 2017 where the client had asked for his removal from site but Simon Morrison resisted that and a made a case for the claimant to remain in place and this was successful. We therefore find no history of animus towards the claimant.

He relies, in particular, on his view that he had been removed from the respondent's records because his name did not appear on the team lists dated 29 July at the latest. This was the only piece of evidence which the claimant put before us which we find does not, on the balance of probabilities, show that the respondent had decided to terminate his employment at that stage. We note that he was on suspension at the time and find that this is the most likely explanation for his name not being on a team list.

We also note that the claimant has not disputed that he committed the act which led to his dismissal. We also note that Eugene Jonas was from another region and therefore not part of any ongoing narrative with the claimant and he has cogently explained his reasons for finding gross misconduct. We also note that Eugene Jonas chose not to take action on other allegations which formed part of the disciplinary hearing and we find this indicative of that Eugene Jonas approached the disciplinary with an open mind.

*6.2. Was the sanction of dismissal too severe?*

We accept the respondent's explanation that this was an act of misconduct. We accept that it was outside the powers of a security officer to detain individuals who had not committed an indictable offence, and the misconduct was aggravated by the fact that the individuals were 14 years old. The respondent relies also on the fact that this could bring it into disrepute, which is a gross misconduct offence, but we take the view that

the incident itself, which amounted a violation of the human rights of the two youths, amounted to gross misconduct in any event. We considered whether a lesser sanction would have been appropriate given that the incident was over quite quickly and no great harm appears to have been done and there was no evidence of disrepute. However, bearing in mind that we must not substitute our view for that of the employer, we are satisfied that Eugene Jonas's decision was within the range of reasonable responses.

We therefore find that the dismissal was fair.

*6.3. Was the claimant discriminated on the grounds of his race (black Caribbean) by*

*a) Being suspended on 26 November 2018 compared with Bikash Gurung not being suspended on 23 June 2019*

The claimant notes that he was suspended when there was an allegation that he had left his shift early. He was suspended in front of his colleagues and, ultimately, no disciplinary action was taken. The comparator, Bikash Gurung, was investigated for a breach of the access rules of the building but was not suspended pending that investigation. We find that there were legitimate grounds for suspension of the claimant but the manner in which the suspension was carried out was unnecessary and unduly harsh. However, we have found no evidence that race was a factor in this decision.

We are surprised that Bikash Gurung was not suspended given the severity of his offence, for which there was sufficient evidence before us that it was potentially a gross misconduct offence, particularly as Bikash Gurung had asked if it was permitted to grant access and had been told it was not. However, although the treatment of Bikash Gurung appears to be lenient, we cannot link this to his race. We do not accept the respondent's argument that Bikash Gurung was treated differently because he was apologetic and contrite, since they did not know this at the time of the decision not to suspend. However, we do accept that decisions were taken by different people and there is always likely to be a difference in approach between different decision makers and we find that there is no evidence that race was a factor.

*b) Issues regarding a CCTV licence between February and August 2019*

From the evidence before us, it is apparent that the failure to complete the application to the SIA for a CCTV licence can be explained by a series of failures in communication. The person dealing with the application, Lorraine Sillwood, sent all communications via the line manager, Tony Lyle, rather than dealing with the claimant himself. The claimant did not help matters by providing an incorrect password. There was also a problem arising from a missing consent form which the claimant claims to have given to Tony Lyle but Tony Lyle denies receiving. Although this

series of failures was unfortunate, we find no evidence to suggest that race played any part. Lorraine Sillwood continued to attempt to progress the application throughout this period.

*c) Being dismissed?*

For the reasons set out in paragraphs 6.1 and 6.2 above, we find that the dismissal was fair and we do not find that the claimant's race played any part in his dismissal.

*6.4. Was the claimant victimised after having raised a grievance in January 2018 (the protected act) in that*

*a) The respondent attempted to replace him on two occasions*

We find that the reason for the appointment of John Berritt was not to replace the claimant, who had recently been promoted, but because of a failure of communication amongst the management team. Despite the surplus headcount, the respondent took no steps to remove the claimant.

In relation to the appointment of Matt Sobkowiak, we find that there is no evidence that Matt Sobkowiak was intended to replace the claimant. We note that Matt Sobkowiak never worked nights, which was the claimant's regular shift.

*b) He was dismissed?*

For the reasons set out in paragraphs 6.1 and 6.2 above, we find that the dismissal was fair and we do not find that the claimant's previous grievance played any part in his dismissal. Although it was Eugene Jonas who heard the grievance at which the allegation of discrimination had been made and it was Eugene Jonas who conducted the disciplinary hearing and decided to dismiss, we find no evidence to link the two. Eugene Jonas dealt with the original grievance fairly and did not uphold the discrimination aspect as he was unable to access the relevant information as the alleged protagonists had left the company. As explained, we have found Eugene Jonas's dismissal decision to be sound and fair.

*6.5. Was the claimant dismissed because he made a protected disclosure?*

The respondent accepts that the claimant made a complaint but alleges that the claimant failed to identify the relevant subsection of the statutory provision on which he relies. We find that the claimant relies on breach of a legal obligation. Neither party addressed us on whether the disclosure was in the public interest and we accept that it was a legitimate for the claimant to raise his concern. However, we question whether the claimant's disclosure was in the public interest.

If we accept there was a protected disclosure, we must then consider whether this led to the claimant's dismissal. We have set out our views on the fairness of the dismissal and find that it was a justifiable dismissal on

disciplinary grounds. We do not find that the claimant's disclosure played any part in his dismissal.

*6.6 Are the claimant's claims within time?*

As the claimant has not been successful in his claims, we do not need to consider any time points.

In conclusion, the claimant's complaints fail and are hereby dismissed.

Employment Judge Davidson

Date 15 December 2020