



EMPLOYMENT TRIBUNALS

Claimant: Mr A Smith
Respondent: Full Circle Irrigation Limited

Heard at: Leeds by CVP **On:** 6 October and 24 November 2021

Before: Employment Judge Tegerdine

Representation

Claimant: In person
Respondent: Mr F Greatley-Hirsch (counsel)

WRITTEN REASONS

1. After hearing evidence and receiving submissions from the claimant and the respondent's representative, the Tribunal delivered its oral judgment. On 8 December 2021 the respondent's representative contacted the Tribunal by email to request written reasons. The Tribunal now gives its reasons for the judgment that was reached.

Introduction

2. In a claim form presented to the Tribunal on 11 June 2021, the claimant brought complaints of unfair dismissal and wrongful dismissal. Unfair dismissal is a statutory complaint brought under the Employment Rights Act 1996. Wrongful dismissal is a claim for breach of contract, based on an employer's failure to give notice.
3. The Tribunal heard evidence from the claimant. The respondent called evidence from Mr George (Managing Director), Miss George (a former company director) and Mrs Morley-Jones (an independent HR professional).

Findings of fact

4. The claimant started working for Mr George as a labourer in 2009, when Mr George was trading as Full Circle Irrigation Services. Mr George's business was incorporated in 2014, and the claimant became employed by the respondent as an

Irrigation Service Engineer in 2015. The claimant's employment ended on 24 February 2021, when he was dismissed with immediate effect for gross misconduct.

5. It was not disputed that the claimant was engaged in an extramarital affair with Miss George, who was a company director and married to Mr George at the time, between Spring 2020 and January 2021.
6. In January 2021 Mr Moon, who was employed by the respondent, raised his suspicions about the nature of the relationship between the claimant and Miss George with Mr George.
7. On 22 January 2021, Miss George admitted to Mr George that she had had a sexual relationship with the claimant. The claimant was suspended on full pay that same day. The suspension letter, which was at page 301 of the hearing bundle, stated that the suspension was being implemented because the allegations related to an extramarital affair and harassment involving Miss George.
8. At paragraph 11 of Mr George's witness statement he said that he appointed HR 180 Ltd, an independent HR consultancy (**HR 180**), to carry out an investigation into allegations against the claimant, and that the respondent entered into a Supply of Services Agreement with HR 180. A copy of that agreement was at page 87 of the hearing bundle. As this was not disputed by the claimant, the Tribunal found that the respondent instructed HR 180 to carry out an investigation into allegations against the claimant, and entered into the Supply of Services Agreement which was in the bundle.
9. It was not disputed that HR 180 assigned the investigation to Mr Frear, who was one of HR 180's HR partners at the time. It was also not disputed that Mr Frear conducted an investigation, during which he interviewed the claimant, Miss George, and several other witnesses.
10. Mr Frear's investigation report was at page 102 of the hearing bundle. Mr Frear did not give evidence at the Tribunal hearing, and although it was not clear how it came about, it is clear from Mr Frear's report that by the time he compiled it, the allegations against the claimant had changed, as by that time there were four allegations against the claimant. It was alleged that the claimant had:
 - 10.1 Been abusive towards Mr George during an argument at Leeds United Training ground;
 - 10.2 Shared naked images of Miss George to others without her consent;
 - 10.3 Had sexual encounters with Miss George during working hours and on, or in, company property; and
 - 10.4 Made xenophobic comments to colleagues.

Mr Frear's report recommended that the claimant be asked to attend a disciplinary hearing to answer these allegations.

11. HR 180 arranged for Ms Brown, who worked for HR 180 at the time, to conduct a disciplinary hearing. On 16 February 2021, Ms Brown sent a letter to the claimant inviting him to a disciplinary hearing on 17 February 2021. A copy of that letter

was at page 310 of the hearing bundle. Brief details of the allegations were set out in the letter. The letter said that there were a number enclosures with it, including notes of interviews with various witnesses, notes of an investigatory interview with the claimant, a copy of the respondent's Disciplinary Policy, copies of phone records for Miss George and the claimant, and a copy of Mr Frear's investigation report. The claimant sent an email to Ms Brown asking to re-schedule the hearing, and it was rearranged for 22 February 2021.

12. The disciplinary hearing took place on 22 February 2021. Although the claimant was informed of his right to be accompanied, he was not accompanied at the hearing and he did not request a further postponement. The claimant did not dispute the accuracy of the notes of the hearing which were at page 233 - 290 of the hearing bundle, and the Tribunal's findings at paragraphs 13 - 20 were made on that basis.
13. Shortly after the disciplinary hearing began Ms Brown said, "So the evidence that will be discussed today is the investigation report that was dated 1st February" (page 238 of the hearing bundle).
14. In the claimant's oral evidence the claimant said that he hadn't seen Mr Frear's investigation report until the Tribunal hearing. When the Tribunal pointed out to the claimant that the letter inviting him to a disciplinary hearing (page 310 of the bundle) stated that a copy of the investigation report was enclosed, and that the investigation report was referred to by Ms Brown during the disciplinary hearing (page 238 of the bundle), the claimant said that he didn't know whether or not the investigatory report had been sent to him and he may have missed it, however he hadn't seen it until the Tribunal hearing.
15. On the basis that Ms Brown's letter of 16 February 2021 referred to the investigation report, and on the basis that Ms Brown expressly referred to the investigation report at the disciplinary hearing without this being questioned by the claimant, the Tribunal preferred the contemporaneous documents to the claimant's evidence, and found that a copy of the investigation report was sent to the claimant with the letter of 16 February 2021, together with copies of the other evidence which is referred to in that letter.
16. During the disciplinary hearing, the claimant accepted he had had a sexual relationship with Miss George, however he denied the allegations which were put to him.
17. The investigatory report contained statements from a number of witnesses which appeared to confirm that the allegations were true. Mr Grafton had substantiated Mr George's claim that the claimant had shouted and sworn at Mr George at Leeds United training ground, thrown a bag of tools on the floor, and left site. Miss George had provided a statement which said that the claimant had referred to people as "the Polish" and "Romanian bastards" and said she had been engaged in sexual activity with the claimant in the office and in work vehicles during working hours. Mr Moon had provided a statement which said that the claimant had

referred to his colleagues as “Polish dogs”, and both Mr Kaminski and Mr Patryarcha had provided statements which said that the claimant had referred to Mr Patryarcha as a “Polish cunt”. The claimant’s response to this evidence during the disciplinary hearing was to suggest to Ms Brown that Mr Grafton, Mr Kaminski and Mr Patryarcha may have been bribed by Mr George to provide evidence against him.

18. The claimant told Ms Brown that he had never possessed any intimate photographs of Miss George. The claimant suggested that Miss George may have sent a photograph of herself to Mr Stevenson (an employee of the respondent) and was now blaming it on the claimant.
19. In respect of the allegation that the claimant had had sexual encounters with Miss George during working time and in or on company property, the claimant denied that this had ever happened, and said that their encounters had been conducted outdoors.
20. The claimant denied the allegation that he had made xenophobic remarks to colleagues. The claimant claimed that it has been Mr Grafton, and not the claimant, who had called his Polish colleagues “Polish dogs” and “Polish cunts” (page 278 and page 280 bundle).
21. On 26 February 2021 Ms Brown sent a letter to the claimant confirming the outcome of the disciplinary hearing (page 333 of the hearing bundle). The letter stated that having considered all the evidence, including the claimant’s evidence and mitigation put forward by him, the allegations against the claimant had been upheld, and he had been dismissed with immediate effect on the grounds of gross misconduct.
22. In the letter of 26 February 2021 Ms Brown stated that, “I have not in any way been influenced by anyone, most especially Robert George, in either my investigations or my decisions and, as I explained before, my company Supply of Services Agreement prohibits any interference. It is important to note that I had not spoken with Robert George, and I was specifically asked by my Managing Director not to, so that I could retain complete independence given how emotive the issues are.” The letter stated that the claimant had the right to appeal.
23. The claimant exercised his right of appeal and wrote to Ms Brown on 3 March 2021 setting out the grounds of his appeal. A copy of this letter was at page 346 of the hearing bundle. The claimant’s grounds of appeal were:
 - 23.1 The argument with Mr George had taken place four months ago, and should have been investigated at the time;
 - 23.2 The claimant hadn’t seen the photograph of Miss George that he was alleged to have sent, and it was purely hearsay that he had sent it;
 - 23.2 The claimant had not participated in sexual conduct during working hours; and
 - 23.3 The claimant had not made xenophobic comments.

24. The appeal hearing took place on 10 March 2021 and was conducted by Becky Mee, another HR Partner who worked for HR 180. The outcome of the appeal was confirmed in a letter dated 31 March 2021, a copy of which was in the bundle at page 358. The decision to dismiss the claimant was upheld.
25. The claimant said at paragraph 22 of his witness statement that he believed the investigation was unfair because:
 - 25.1 He felt he wasn't being listen to;
 - 25.2 The allegations against him were fabricated (apart from the allegation relating to the argument at Leeds United training ground); and
 - 25.3 Requests he made for hard copies of documents and recordings weren't fulfilled.

The claimant also said that the allegations relating to the argument with Mr George should have been investigated sooner, and his dismissal was unfair because Miss George had been treated differently.

26. At paragraph 16 of the claimant's witness statement the claimant said that the allegations against him had been fabricated. At paragraph 20 of the claimant's witness statement the claimant referred to the comment "He has to go, you know what I mean" which Mr George made to Mr Frear during an investigatory meeting (page 187 of the hearing bundle), and in the claimant's oral evidence the claimant said that he believed that the decision to dismiss him was made by Mr George rather than by HR 180. At paragraph 22 of the claimant's witness statement he said that he was sure that HR 180 had been acting on Mr George's wish to dismiss him.
27. When the Tribunal asked the claimant why he was "sure" that HR 180 were acting on Mr George's wishes to dismiss him from the business, the claimant said that this was because his requests weren't listed to and because of how he was treated. The claimant said that he felt as if he was on a murder charge and it "didn't feel right".
28. At paragraph 11 of Mr George's witness statement Mr George said he had been advised by HR 180 during a telephone conversation that any decision taken by HR 180 had to be followed by the respondent. Mr George also said in his witness statement that he understood that the agreement with HR 180 gave HR 180 the autonomy to come to a decision they felt was appropriate based on the evidence, that he had no further involvement with the investigation, disciplinary or appeal process, and that he had a limited number of communications with HR 180.
29. Clause 5.1.3 of the Supply of Services Agreement between HR 180 and the respondent (page 92 of the hearing bundle) stated that where HR 180 has been instructed to conduct a disciplinary procedure and make a decision on the outcome of the procedure on the client's behalf, the client agrees not to interfere with or attempt to influence the outcome of that procedure, to accept, support and put into effect whatever decision HR 180 makes, and procure that HR 180 will have full autonomy in conducting such procedure and determining its outcome.

30. At paragraph 5 of Mrs Morley Jones's witness statement she said that HR 180 makes decisions entirely independently of the client. At paragraph 11 of Mrs Morley Jones's witness statement she said that individuals who work for HR 180 are bound by professional ethics, and fiercely guard against any reputational risk to the company, which would have a negative impact on the company's success. Mrs Morley Jones's evidence about this was not challenged by the claimant, and the Tribunal found Mrs Morley Jones to be a credible witness.
31. Neither Mr Frear nor Ms Brown were available to give evidence at the hearing. At paragraph 18 of Mrs Morley Jones's witness statement, she said that this was because they had both left HR 180 for personal reasons, and as this was not challenged by the claimant, Mrs Morley Jones's explanation for their absence was accepted by the Tribunal.
32. Although the claimant said that he felt he wasn't being listened to, the documents in the hearing bundle showed that Mr Frear conducted a full investigation during which he interviewed six people. The notes of the investigation meeting Mr Frear had with the claimant (page 205 of the hearing bundle) are detailed, and suggest that the claimant was given a fair opportunity to put forward his version of events. The notes of the disciplinary hearing are even more extensive.
33. The claimant did not suggest during the Tribunal hearing that there was anyone else who should have been interviewed by HR 180 during their investigation, or suggest that there was any additional evidence which should have been taken into account by HR 180.
34. Although the claimant claimed that most of the allegations against him were fabricated, and said that he was sure that HR 180 were acting on Mr George's wishes to dismiss him, he did not produce any evidence to show that any of the allegations were fabricated, or which showed that HR 180 had not been acting independently.
35. At paragraph 7 of Miss George's witness statement she said that her affair with the claimant had been carried on company property and during working hours. The Tribunal found Miss George to be a credible witness. Miss George gave direct and candid answers to the questions she was asked, and there was no reason for her to be dishonest about what happened between herself and the claimant. However, the Tribunal found that the claimant's evidence to be unsatisfactory.
36. The Tribunal found the claimant's assertion (whilst giving oral evidence) that his affair with Miss George, which took place over a period of at least eight months, some of which were in the middle of winter, was conducted wholly outside, to be implausible. The Tribunal found the claimant's suggestion that a number of witnesses who gave evidence during the course of HR 180's investigation were lying or had been bribed, when there was absolutely no evidence to substantiate this, to be far-fetched. The claimant also denied that he had been given a copy of the investigatory report before the disciplinary hearing, even though the documentary evidence clearly showed that a copy had been given to him. For these reasons the claimant preferred Mr George's evidence, Miss George's evidence, Mrs Morley-Jones's evidence and the contemporaneous documentary evidence to the claimant's evidence.

37. On the basis of the contemporaneous documentary evidence in the hearing bundle, including Mr Frear's investigation report, the statements which were provided to Mr Frear during the course of his investigation, and the notes of the investigatory meeting and disciplinary hearing with the claimant, the Tribunal found that the respondent carried out a full investigation into the allegations against the claimant, and invited the claimant to an investigatory meeting and disciplinary hearing at which the claimant was given a full opportunity to put forward his version of events.
38. On the basis of the contemporaneous documents and the evidence was given by Mr George and Mrs Morley-Jones, the Tribunal found that it was Ms Brown, and not Mr George, who made the decision to dismiss the claimant.
39. In respect of the claimant's complaint that the allegation relating to his abusive behaviour towards with Mr George should have been investigated at the time the incident happened, the Tribunal found that the respondent had provided a satisfactory explanation as to why that allegation had not been investigated sooner.
40. At paragraph 21 of Mr George's witness statement Mr George explained that the reason for the delay was that Miss George, who had been responsible for dealing with HR issues and who was in a relationship with the claimant at the time, had misled Mr George, by telling him that she had taken advice and had been advised that the respondent could not take disciplinary action against the claimant. This was also confirmed by Miss George at paragraph 13 of her witness statement.
41. On the basis of the evidence given by Mr George and Miss George. the Tribunal found that the reason disciplinary action was not taken against the claimant in respect of the incident at Leeds United training ground at the time it happened was because Miss George had told Mr George that they couldn't take such action.
42. In relation to the claimant's complaint that Miss George received differential treatment to the treatment the claimant received, the Tribunal considered the contents of Miss George's resignation letter which was at page 307 of the bundle, and found that the reason disciplinary action was not taken against Miss George was that she resigned on 12 February 2021 before any disciplinary action was taken against her.
43. Miss George was reinstated as an administrator a short time after she resigned, however that does not mean that it would have been appropriate for the respondent to take disciplinary action against her in respect of her previous employment in a different capacity.
44. The Tribunal found that at the time of the claimant's dismissal there was clear evidence available to Ms Brown to substantiate findings of gross misconduct in relation to:
 - 44.1 The claimant's abusive behaviour towards Mr George during an incident at Leeds United training ground (Mr George's statement, Mr Kaminski's statement, and a statement from Mr Grafton);

- 44.2 Participation in sexual activity during working hours and in or on company property (Miss George's statement); and
- 44.3 Making xenophobic comments (Mr Kaminski's statement, Mr Patryarcha's statement, and Mr Moon's statement).
45. As the various witnesses' statements were consistent with each other, and there was no evidence that any of them had been fabricated, the Tribunal found that they had not been fabricated, that there was no reason for Ms Brown to believe they had been fabricated, and that it was reasonable for the Ms Brown to rely on them for the purposes of deciding whether to uphold the allegations against the claimant.
46. For the reasons set out at paragraphs 17, 18, 19, 20, 34, 35, 36, 44 and 45, the Tribunal found that the claimant was guilty of gross misconduct in relation to:
- 46.1 His abusive behaviour towards Mr George at Leeds United training ground;
- 46.2 Participation in sexual activity during working hours, and on or in company property; and
- 46.3 Making xenophobic comments to colleagues.
47. However, the Tribunal found that there was very little evidence to substantiate a finding of gross misconduct in relation to the allegation that the claimant had sent naked images of Miss George to someone without Miss George's permission.
48. Mr Kaminski's statement about the alleged image of Miss George was unsatisfactory, as Mr Kaminski doesn't even seem sure who the person in the photograph was. During the internal investigation Mr Kaminski said, "you couldn't really tell who it was" (page 127 of the hearing bundle).
49. Although the Tribunal accepted Miss George's evidence that she had shared naked images of herself with the claimant, there was no clear evidence that the claimant had ever shared them with anyone, and no such evidence was available to HR 180 when it decided to uphold this allegation against the claimant.
50. For the reasons set out at paragraphs 47 - 49 the Tribunal found that there was insufficient evidence at the time of the claimant's dismissal to substantiate a finding of gross misconduct in relation to the allegation that the claimant had shared naked images of Miss George without her permission.
51. As no additional evidence was presented by the respondent during the Tribunal hearing to support the respondent's assertion that the claimant was guilty of gross misconduct in relation to the allegation that the claimant had shared naked images of Miss George without her permission, the Tribunal found that the claimant was not guilty of gross misconduct in respect of that allegation.

The relevant law

Unfair dismissal

52. Employees who have been employed for the requisite period of time have the right not to be unfairly dismissed under section 94 of the Employment Rights Act 1996.
53. Section 98 of the Employment Rights Act deals with the fairness of dismissals. In order for a dismissal to be fair, the employer must show that it had a potentially

fair reason for dismissal. If the respondent is able to show that it had a potentially fair reason for dismissal, the Tribunal must consider whether the respondent acted fairly or unfairly in dismissing the employee for that reason.

54. Misconduct is a potentially fair reason for dismissal. In order for a dismissal for misconduct to be fair:
 - 54.1 The employer must establish that misconduct was the real reason for the dismissal; and
 - 54.2 The Tribunal must find that the employer acted reasonably, in all the circumstances of the case, in treating misconduct as the reason for dismissing the employee.
55. Whether the claimant's dismissal was fair or unfair depends on whether the respondent acted reasonably or unreasonably in dismissing the claimant on the grounds of misconduct. In deciding whether the employer acted reasonably or unreasonably, the Tribunal is required to take into account the matters which are set out in section 98(4) of the Employment Rights Act 1996.
56. It is well established law that the issue to be determined by the Tribunal is not whether the Tribunal would have acted differently, or whether it would have made the same decision as the employer. The Tribunal must consider the reasonableness of the employer's conduct, and must not substitute its decision as to what was the right course to adopt for that of the employer (**Iceland Frozen Foods Ltd v Jones 1982 IRLR 439 and Sainsbury's Supermarket Ltd v Hitt 2003 IRLR 23**).
57. In many cases there will be a range of reasonable responses to the employee's conduct within which one employer might reasonably take one view, and another might quite reasonably take another. The function of the Tribunal is to determine whether in the particular circumstances of the case the decision to dismiss the employee fell within the range of reasonable responses which a reasonable employer might have adopted. This includes consideration of whether the dismissal was procedurally fair.
58. The leading case on reasonableness in relation to misconduct is **BHS v Burchell [1980] ICR 303**. The Tribunal must first decide whether the employer had a genuine belief in the employer's guilt the time of the dismissal. If the employer did have a genuine belief in the employers' guilt, the Tribunal must then decide whether the employer held that belief on reasonable grounds and after carrying out a reasonable investigation.
59. The Tribunal must decide whether the employer acted reasonably or unreasonably in relation to all aspects of the case, including the investigation, the grounds for the employer's belief, the penalty imposed, and the procedure followed.
60. Should the Tribunal decide that the dismissal was unfair it shall go on to consider remedy.

61. Under section 118 of the Employment Rights Act 1996, where a Tribunal makes an award for compensation for unfair dismissal, it shall consist of a basic award and a compensatory award.
62. The basic award is calculated according to a formula set out in section 119 of the Employment Rights Act 1996 based on the claimant's age, length of service and gross weekly pay. It is the same calculation as is used for calculating statutory redundancy pay.
63. If the Tribunal considers that any conduct of the claimant before the dismissal was such that it would be just and equitable to reduce the amount of the basic award to any extent, then the Tribunal shall reduce amount of the basic award accordingly (section 122(2) of the Employment Rights Act 1996).
64. Section 123 of the 1996 Act provides that the compensatory award shall be such amount as the Tribunal considers just and equitable in all the circumstances having regard to the loss sustained by the complainant in consequence of the dismissal, insofar as that loss is attributable to action taken by the employer.
65. Where the Tribunal finds that the dismissal was to any extent caused or contributed to or by the action of the claimant, the Tribunal shall reduce the amount of the compensatory award by such proportion as it considers just and equitable having regard to that finding (S.123(6) ERA).
66. Should the Tribunal find that the dismissal was procedurally unfair but, had a fair procedure been adopted, the employee would have been dismissed in any event, that is a matter which will affect the compensatory award (**Polkey v A E Dayton Service Limited 1988 ICR 142**). A Tribunal may award no compensation or make a percentage reduction in compensation (known as a "Polkey deduction") to reflect the possibility that the employee may still have been dismissed.

Wrongful Dismissal

67. In this case it was not disputed that the claimant was dismissed with immediate effect, without notice. If the claimant was guilty of gross misconduct, this amounted to a serious breach of contract on his part, and the respondent was entitled to dismiss him without notice. However, if the claimant was not guilty of gross misconduct, he was entitled to be given his notice or a payment in lieu of notice, in which case his claim for notice pay would succeed.

Conclusions

68. The Tribunal reached the following conclusions based on the findings of fact which are set out above.
69. The respondent appointed HR 180, an independent HR consultancy, to investigate the allegations against the claimant and conduct a disciplinary hearing. On the basis of the contemporaneous documents which were included in the bundle, the Tribunal found that HR 180 carried out a full investigation, and that the claimant was given the opportunity put forward his version of events at both an investigatory meeting and the disciplinary hearing. The Tribunal found that there was sufficient evidence at the time of the claimant's dismissal to justify a finding of gross

misconduct in relation to three of the four allegations which were upheld by HR 180.

70. The Tribunal found that it was Ms Brown who made the decision to dismiss the claimant, and that this decision was made on the grounds of the claimant's gross misconduct.
71. The Tribunal was satisfied that there was a potentially fair reason for the dismissal of the claimant, which was the claimant's conduct. The Tribunal was satisfied that the respondent had a genuine belief that the claimant was guilty of gross misconduct by being abusive towards the Managing Director, participating in sexual activity during working hours and on or in company property, and by making xenophobic comments to colleagues.
72. The Tribunal found that there was insufficient evidence to justify a finding of gross misconduct in relation to the allegation that the claimant had shared naked images of Miss George with someone without Miss George's permission. However, the Tribunal found that each of the allegations against the claimant were standalone charges, each of which were independent acts of gross misconduct meriting dismissal.
73. The Tribunal found that Ms Brown had reasonable grounds to believe the claimant was guilty of gross misconduct in relation to the other three allegations, each of which on their own were serious enough to amount to gross misconduct and justify dismissal, and that there were reasonable grounds for that belief.
74. The Tribunal was satisfied that the respondent's belief that the claimant had committed an act of gross misconduct was reasonably held, following a reasonable process.
75. The Tribunal found that the sanction which was imposed was within the range or reasonable responses, taking into account all the circumstances, including the seriousness of the claimant's misconduct.
76. The judgment of the Tribunal was that the respondent did not unfairly dismiss the claimant. Accordingly, the claimant's complaint of unfair dismissal failed.
77. The judgment of the Tribunal was that the respondent was guilty of gross misconduct. Accordingly, the respondent was entitled to dismiss the claimant without notice, and the claimant's complaint of wrongful dismissal failed.
78. If the Tribunal was wrong to find that the procedure used by the respondent was a reasonable procedure and consequently the decision to dismiss the claimant was unfair, the Tribunal would have made a 100% reduction to both the basic and compensatory awards on account of the claimant's conduct.
79. The Tribunal made findings of fact that the claimant was involved in sexual activity during working hours and on work property, made xenophobic remarks to

colleagues, and was abusive towards the respondent's Managing Director. This was culpable and blameworthy conduct warranting the maximum reduction to the basic award.

80. The claimant's conduct was the reason for his dismissal. Accordingly, it would have been open to the Tribunal to make a reduction to the compensatory award in such amount as the Tribunal considered to be just and equitable. In the Tribunal's judgment, the claimant was wholly to blame for his dismissal. The claimant's behaviour was culpable and blameworthy. A 100% reduction would therefore have been made to the claimant's compensatory award, had he succeeded with his unfair dismissal complaint.

Employment Judge Tegerdine

Date 1 February 2022

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