EMPLOYMENT TRIBUNALS

Claimant: Mr U Karim

Respondent: DHL Services Ltd

Heard at: Birmingham by CVP on 19 and 20 July 2023
And Reserved Decision 8 August 2023

Before: Employment Judge Hindmarch

Appearances
For the claimant: Dr Ahmad - Counsel
For the respondent: Ms Niaz-Dickinson – Counsel

RESERVED JUDGMENT

1. The claims of unfair dismissal and wrongful dismissal are not well founded and are dismissed.

2. The claims for holiday pay and arrears of pay were withdrawn on 6 June 2023 and are dismissed.

REASONS

3. This claim for unfair dismissal and for notice pay came before me for hearing by CVP on 19 and 20 July 2023. The Claimant was represented by Counsel, Dr Ahmad, and the Respondent was represented by Counsel, Mr Niaz-Dickinson.

4. I had a bundle running to 462 pages. Page references in this Judgment are to page numbers in the bundle. I had a witness statement from the Claimant and 3 witness statements for the Respondent.

5. All the witnesses gave evidence. The Respondent's witnesses were Zohra Rashid (Health and Safety First Line manager) who conducted the investigation, Jason Chandler (Senior Operations Manager), who acted as the dismissing officer, and Timothy Marriott (General Manager for the Automated Storage Retrieval System) who acted as the appeal officer.

6. Witness evidence took all of day 1 and until lunchtime of day 2. I heard submissions and these were concluded after 4pm. This meant I did not have time to deliberate or hand down a Judgment and it was agreed I would reserve my Judgment and provide written reasons.

7. The Claimant was employed by the Respondent latterly in the role of Manual Handling Equipment Trainer. His employment commenced on 1 February 2013 and continued until he was dismissed by the Respondent on 13 October 2022. His ET1 was filed on 16 March 2023, following a period of ACAS Early Conciliation from 5 January 2023 to 16 February 2023. The Response was filed on 14 April 2023.

8. At the outset of the hearing, I agreed the issues with the parties. Given the Respondent accepted dismissing the Claimant it would be for the Respondent to show the reason for dismissal and that it was a potentially fair reason. The Respondent said the reason was conduct.

9. I would need to consider whether the Respondent acted reasonably in all the circumstances in treating that as a sufficient reason to dismiss the Claimant and whether:

    a) There were no reasonable grounds for the Respondent to form a belief in misconduct;
    b) That at the time the belief was formed the Respondent had carried out a reasonable investigation;
    c) That the Respondent otherwise acted in a procedurally fair manner;
    d) That dismissal was within the range of reasonable responses.

10. The Respondent had submitted an application to amend its Response to alter some of the factual pleading. Dr Ahmad for the Claimant did not object to the amendment application, and I allowed it.

Findings of Fact

11. The Claimant was initially employed by the Respondent as an Internal Logistics Operator. On 22 February 2021, he moved to the role of Manual Handling Equipment Trainer and his role involved ensuring that employees were trained to use and operate vehicles utilised by the Respondent at its Solihull site. It was not in dispute that prior to matters that led to his dismissal the Claimant had an blemished disciplinary record.

12. The Claimant was issued with written terms and conditions of employment on 4 February 2013 (pages 45 – 53 of the bundle). On 23 February 2021, the Claimant was issued with a revised Employment Contract (pages 63 – 73). This provided at clause 19 ‘Your attention is drawn to the disciplinary and

grievance policy. A guide to where these policies can be found is in your offer pack.'

13. The Respondent had a Disciplinary and Grievance Policy (pages 55 – 62). This contains 'examples of acts of gross misconduct' which includes:

    - 'Deliberate or serious breaches of conduct, standards/rules and procedures
    - Any action which can be construed as an intention to deceive the business
    - Deliberate, repeated or serious breaches of Health and Safety procedures, rules and safe systems of work.'

14. The Claimant had a 'Role Profile', akin to a job description, (pages 334 – 336). This gave his 'specific role context' as 'to ensure that all employees are comprehensively trained and qualified to operate work equipment. Promotes safe working practices, coaches' students and colleagues on safe behaviours and best practice whilst operating MHE or performing processes.' The 'general responsibilities of the role' included:

    - 'To conduct all Mechanical Handling Equipment (MHE) training in accordance with current legislation and company requirements
    - To devise, implement and conduct MHE operators courses
    - Adhere to and promote Health and Safety.'

15. On 6 May 2022, there was an incident involving one of the Respondent's employees (initials SH). SH was driving a reach truck in a warehouse when the load caught a swing gate causing the load to become unstable. The load in time toppled off the forks and onto the ground. There was a 'flash incident report' completed giving details of this incident (pages 196 – 198).

16. SH, as a driver working for the Respondent, was obliged to undergo training whilst employed by the Respondent and to demonstrate he could safely operate the truck. The training involves a 2-part assessment including a theory and practical test. the Respondent requires all drivers to complete this assessment when they are new starters, when they have had a long-term absence of 12 weeks or more, where they have had an incident whilst driving, and in any event, every 3 years.

17. It was the Claimant's responsibility to conduct these assessments.

18. It was not in dispute that the assessment process for driving a reach truck was as follows:

    a. The trainer (the Claimant) and the individual being assessed would go to a classroom, canteen or training area. They then complete the

details on the assessment forms – names, date of test, type of test (pages 148 – 156 were an example of the forms that are completed during the assessment.)

b. The individual being assessed then confirms they understand the Respondent's safe systems of work and what is required in driving a reach truck (pages 152 – 155).

c. A video is then shown prior to completing a Manual Handling sign off (page 156).

d. The theory part of the test comes next. The individual being assessed provides answers on a test paper. This is then marked by the trainer who gives feedback. If the individual being assessed does not pass the theory, they cannot move onto the practical stage. If they pass they write their name on the practical section of the assessment papers before moving to the practical.

e. The individual and trainer then move to the chosen vehicle for the practical test. Prior to getting onto the vehicle a pre-inspection takes place. A form known as Ops29 MHE Inspection Form is completed. The Ops29 form contains the unique identification number of the vehicle, the time of inspection and the hour meter reading (how many hours of driving that vehicle has completed). After the Ops29 form is completed it is ripped out of the book and it leaves a carbon copy. The book (and the carbon copies) remain with the vehicle and the original form is placed on the truck with a green inspection sign if the inspection was passed, and a red sign if it has failed. Once the test is complete the Ops29 form should be kept with the training assessment records.

f. If the vehicle passes the inspection it can be used for the practical test. The trainer assesses the practical test recording any faults and penalties on the practical assessment sheet (page 150).

g. The individual is then told by the trainer whether they have passed, failed or are subject to mandatory disqualification. If they pass they are issued an in-house licence.

19. On 26 April 2020, the Claimant was the trainer assigned to take SH and another employee, initials AB, through the assessment. Both SH and AB had been on a long-term absence and required to be assessed before driving any vehicles. In the bundle at pages 157 – 175 are copies of the assessment documents for SH. These are signed by both SH and the Claimant. They show that SH passed the theory test and the completion of a Ops29 form for

vehicle R201 with a green sticker showing the vehicle passed its inspection. They demonstrate the practical test was also passed.

20. The forms for AR are at pages 176 – 195 and similarly demonstrate that he passed the test and completed an Ops29 form for vehicle R201.

21. It appears that after the incident on 6 May 2022, when SH was driving a truck which lost its load, both SH and AR informed the Respondent that they had not in fact completed the practical part of the assessment when being assessed by the Claimant on 26 April 2022. A witness statement had been taken from AR on 19 May 2022 (pages 199 – 201) in which he stated that the Claimant had asked him if he was confident on a reach truck, he had replied yes and he had been informed by the Claimant that he had passed the assessment 'without stepping onto a reach truck.' There was an undated but signed witness statement from SH (pages 233 – 235) saying that the Claimant had told him there was no need for the practical assessment due to the length of time he had been driving. These statements had been taken by a manager, PB.

22. Zohra Rashid was asked to investigate matters. She considered the witness statements from SH and AR and decided she wished to speak to AR herself. The notes of the meeting between them are at pages 202 – 203. They are undated but it appears the meeting took place before Zohra Rashid met with the Claimant. She did not speak with SH, explaining in evidence that he was subject to a separate investigation and that she viewed AR as being 'completely independent.'

23. Zohra Rashid also considered the assessment paperwork which had been completed for AR and SH. Both SH and AR had signed the forms to say all training had taken place. She noted the Ops29 form referred to the vehicle being used for the practical assessment as R201, and she wanted to check if the carbon copy of the Ops29 was still in the book with the vehicle. She noted that curiously the hour metre reading on the Ops29 forms (one each for SH and AR) gave the reading as '1, 2, 3, 4, 5. '

24. Zohra Rashid made contact with a colleague to see where vehicle R201 was located. She was informed it had left the site several years earlier so was not in operation at the date of the assessment. She checked whether the digits were misplaced but R210 had also left the site. There was an email exchange with her colleague on 25 May 2022 confirming this, pages 215 – 216.

25. On 24 May 2022, Zohra Rashid sent a letter to the Claimant inviting him to an investigation meeting on 26 May 2022. The letter stated 'the investigation meeting will be about the assessment training that you conducted on 26/04/2022 it is alleged that you did not complete the practical training of the assessment on the reach truck. This allegation constitutes a serious breach of

Health and Safety.' She enclosed a copy of the Disciplinary and Grievance Policy.

26. The Claimant was not suspended from work at any time. Instead, the Respondent moved him to alternative duties.
27. The investigation meeting took place on 26 May 2022. The notes are at pages 236 – 251 and are signed by those present as being an accurate record. The Claimant said the practical assessments had been carried out. He said he had struggled to find a vehicle and he called a colleague, SS, to assist in finding one. He said he had received a text message from SS telling him where to go. He was unable to produce this text message and said it may have been a call. He said he was told by SS to go to location BS3 where a vehicle could be found. He walked to that location with SH and AR, and they did the test and passed. He said he had been a trainer for 5 years and no-one else had alleged he had not carried out their practical assessment.

28. At the end of the meeting Zohra Rashid informed the Claimant she would be carrying out further investigations.

29. On 10 June 2022, Zohra Rashid met with SS. The notes are at pages 252 – 255. SS denied speaking to the Claimant or texting him regarding any vehicle on 26 April 2022. He said it could have been another colleague PB. On 16 June 2022, Zohra Rashid met with PB. The notes are at pages 258 – 261. PB said he had not spoken to the Claimant on 26 April 2022 about the sourcing of any vehicle.

30. On 15 June 2022, Zohra Rashid wrote to the Claimant to invite him to a further investigation meeting on 17 June 2022, pages 256 – 257.

31. The Claimant attended the meeting on 17 June 2022 and the notes are at pages 262 – 277 and are signed off as a true record by those present.

32. Zohra Rashid informed the Claimant that SS had no recollection of speaking to or texting the Claimant, and neither did PB. The Claimant said the practical assessment might have taken place in location BS3 or R5 and that the Op29 Forms had been completed at the vehicle used prior to doing the practical assessment. Zohra Rashid said she had looked for vehicle R201, and also R210, and neither were present on site at the relevant time. The Claimant said he would not have checked what vehicle details AR and SH had entered on the Ops29. At the end of the meeting Zohra Rashid informed the Claimant she believed he had a case to answer at a disciplinary hearing and he would receive an invitation to such a hearing.

33. The Claimant was then on annual leave from 25 July 2022 to 15 August 2022 and then on sick leave 15 August to 1 September 2022. There was further

delay due to the fact 2 managers initially appointed to conduct the disciplinary hearing ended up being unable to do so.

34. Jason Chandler was asked to act as the disciplinary decision maker and the disciplinary hearing was arranged for 12 October 2022. The invitation to the disciplinary hearing set out the allegations as follows:

> "It is alleged on 26 April 2022:
>
> - That you have stated you conducted a practical assessment as a qualified assessor with two operatives on a Reach Truck (MHE) on 26 April 2022.
> - That there is no significant evidence that a practical assessment has been undertaken on this date, but there is documentation that identifies that the operatives passed an assessment on 26 April 2022.
> - That there are serious deliberate breaches of conduct, standards/rules and procedures during this time.
>
> These allegations constitute a serious breach of Health and Safety work policy also the Disciplinary and Grievance policy. The absue allegations could constitute gross misconduct for which the disciplinary action could be up to summary dismissal". (Pages 331 – 332).

35. The letter set out the statutory right to be accompanied and the Claimant was accompanied by his trade union representative. An earlier letter had enclosed all the evidence collated by Zohra Rashid during her investigation and the Respondent's Disciplinary and Grievance Policy, pages 331 – 381.

36. The minutes of the disciplinary hearing are at pages 289 – 299.

37. At the hearing the Claimant maintained that the practical assessment was carried out. As to the entry on the Ops29 form of truck number R201, the Claimant said as AR and SH were doing a refresher assessment post long-term absence, he had asked them if they remembered how to do a pre-shift check i.e., how to complete the Ops29 and asked them to fill in the Ops29 using the number R201.

38. The Claimant said he then took AR and SH to do the practical assessment. Jason Chandler said he understood that R201 had been used as part of the theory training, but that AR and SH would still have had to complete another Ops29 before they operated any vehicle they were using for the practical assessment, and that he wanted to understand which truck had been used and where the Ops29 forms for that truck were.

39. In evidence the Claimant accepted he had not put the Ops29 forms on the training records for SH and AR, to evidence the truck had been used for the

practical assessment. He said he had forgotten to do this and it was 'human error.'

40. The Claimant said he could not remember which truck was used but that the practical assessment took place in location BS3 'towards deck O4 by the Market Place.'

41. Jason Chandler adjourned the hearing to investigate which vehicles were in that area on the date in question so that the book for the vehicle which contained the carbon copies of the Ops29 forms completed by users of that vehicle could be located. It was agreed to reconvene the following day.

42. The hearing reconvened on 13 October 2022. Jason Chandler produced all of the archived Ops29 books from 26 April 2022 and said that AR and SH had not signed any of them. He allowed the Claimant and his trade union representative to review these books.

43. Following an adjournment, Jason Chandler informed the Claimant that he did not believe a practical assessment had been carried out on 26 April 2022. He said, in light of his decision, the Claimant would be dismissed summarily for gross misconduct.

44. On 19 October 2022, Jason Chandler wrote to the Claimant confirming this decision, pages 301 – 303. He set out the reasons for his decision as follows:

    - "After considering all of the information that I have available to me, I believe that there is no substantial evidence that a practical assessment was conducted on the 26 April 2022.
    - The role of an assessor Trainer/Assessor is to ensure that all aspects are covered during any training or re-assessment. It was identified during the hearing that there was no significant evidence to support that any MHE was used for the assessment as no Pre-Shift Check Sheet (Ops29) had been completed by any of the operator's undertaking assessments on the date started. A Pre-Shift Check Sheet has to be completed prior to any use of MHE to state the safety and readiness of the equipment being used.
    - The above points as discussed, constitute a very serious breach (of) rules, procedures and against Health and Safety standards in the workplace."

45. The right of appeal was set out. The Claimant appealed by letter of 24 October 2022, page 304. His grounds of appeal were that there was no designated training area which increased the likelihood of trainers not being able to trace vehicles used for practical assessments, and that AR and SH had not been suspended and may have been disposed of the Ops29 book.

46. Timothy Marriott was appointed to hear the appeal and again the Claimant was accompanied by his trade union representative. The appeal hearing took place on 8 November 2022 and the notes are at pages 309 – 315.

47. Following the hearing, Timothy Marriott met with AR by way of further investigation on 11 November 2022. The notes of the meeting are at pages 318 – 321. AR confirmed that he had not done the practical assessment and that he had given a statement to PB about this. As AR's English is not good, PB had written the statement for him. AR had signed it and confirmed to Timothy Marriott that it was correct.

48. Timothy Marriott sent an email on 11 November to PB to ask him to confirm that he had handwritten the statements for AR and SH, and he replied to say he had, pages 326 – 327.

49. The Respondent conducted an audit of the testing carried out by the Claimant and found these allegations (of there being no practical assessment) to be isolated ones.

50. On 25 November 2022, Timothy Marriott wrote to the Claimant giving the appeal outcome, pages 328 – 330. He upheld the decision to dismiss stating:

    - "DHL take Health and Safety extremely seriously – your position as an MHE instructor requires rules and procedures to be followed to ensure we protect the people who work in our business and our customers business. Failing to train people correctly and follow rules and procedures is totally unacceptable.
    - You were dismissed for a very serious breach of rules, procedures and against Health and Safety standards in the workplace, which constitutes gross misconduct."

Submissions

51. I heard oral submissions from Dr Ahmad. He contended that the Respondent had not made any finding of dishonesty as regards the Claimant and that the Claimant had nothing to gain from not completing the practical assessment.

52. The Claimant did not know AR and SH personally and both AR and SH had signed the training documents to confirm they had undertaken the practical assessment.

53. He conceded that the Respondent had the contractual right to dismiss for gross misconduct and that, if I found there was evidence of gross misconduct, the Respondent had the right to summarily dismiss.

54. Dr Ahmad submitted that the Claimant accepted he had not collected the Ops29 from the vehicle in which the practical assessment had taken place but that attracted at most a final written warning. Dismissal was wholly excessive.

55. He suggested the likelihood of the book linked to the truck being unavailable was because someone had destroyed it and that SH had the motive to do so.

56. On Polkey he submitted no reasonable employer would have dismissed the Claimant. In terms of contributory fault, he argued the Claimant had admitted a human error but beyond that had assisted the Respondent in its investigation and a deduction of 10 – 25% might be appropriate.

57. I had written submissions from Ms Niaz-Dickinson, and she also made oral submissions. She referred me to the case of Graham v Secretary of State for Work and Pensions (Jobcentre Plus) (2012) EWCA 903 in which the Court of Appeal revealed on the case of BHS v Burchell and said:-

> "35. '…once it is established that an employer's reason for dismissing the employer was a 'valid' reason within the statue, the ET has to consider three aspects of the employer's conduct. First, did the employer carry out an investigation into the matter that was reasonable in the circumstances of the case; secondly, did the employer believe that the employee was guilty of the misconduct explained of, and thirdly, did the employer have reasonable grounds for that belief.
>
> 36. If the answer to each of these questions is "yes", the ET must then decide on the reasonableness of the response by the employer. In performing the latter exercise, the ET must consider by the objective standards of the hypothetical reasonable employer, rather than by reference to the ET's own subjective views, whether the employer has acted within a 'band or range of reasonable responses' to the particular misconduct found of the particular employee. If the employer has so acted, then the employer's decision to dismiss will be reasonable. However, this is not the same thing as saying that a decision of an employer to dismiss will only be regarded as unreasonable if it is shown to be perverse. The ET must not simply consider whether they think that the dismissal was fair and thereby substitute their decision as to what was the right course to adopt for that of the employer.
>
> The ET must determine whether the decision of the employer to dismiss the employee fell within the band of reasonable responses which 'a reasonable employer might have adopted.' An ET must focus

its attention on the fairness of the conduct of the employer at the time f the investigation and dismissal (or any internal appeal process) and not on whether in fact the employee has suffered an injustice.

58. She also referred to Tayeh v Barchester Healthcare Ltd (2013) EWCA Civ 29, the Tribunal should not substitute its own findings about the seriousness of an allegation for that of the employer.

59. In Ms Niaz-Dickinson's submission the Respondent carried out a reasonable investigation. The Claimant attended 2 investigation meetings with Zohra Rashial. She spoke with AR. She considered the assessment paperwork and tried to identify the vehicle R201. She spoke with SS and PB. Jason Chandler carried out further investigations to obtain the vehicle books during the disciplinary hearing. If SH had a motive for alleging the Claimant had failed to train him properly, (the later near miss accident), AR did not.

60. She submitted that the Claimant's account had been inconsistent. At the investigation stage he did not mention that the Ops29 forms bearing the vehicle number R201 were 'mock forms.' During the disciplinary hearing he said he had told AR and SH to record R201 on a mock form, yet during the Tribunal hearing he said he had told them to write any number they wanted. The sanction of dismissal was fair.

61. On contributory fault, Ms Niaz-Dickinson suggested a 100% deduction for both the basic and compensatory awards. On Polkey she submitted that any procedural failings were not significant, and the Claimant could have been fairly dismissed within a week of the date of dismissal.

62. At the end of submissions it was agreed that, as the Claimant was seeking reinstatement, I would not make any findings at this stage on either Polkey or contributory fault.

The Law

63. S98 Employment Rights 1996 provides:

"(1) In determining for the purpose of this Part whether the dismissal of an employee is fair or unfair, it is for the employer to show –

(a) the reason (or, if more than one, the principal reason) for the dismissal, and

(b) that it is either a reason falling within subsection (2)…

(2) A reason falls within this subsection if it

(b) relates to the conduct of the employee

(4) [Where] the employer has fulfilled the requirements of subsection (1), the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer)-

(a) depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employer, and

(b) shall be determined in accordance with equity and the substantial merits of the case."

64. We discussed the Burchell test at the outset when identifying the list of issues. There is no need to repeat it here (British Home Stores v Burchell (1980) ICR 303 (EAT)).

65. The test is s98 (4) is an objective test. The question is whether the employer's decision to dismiss fell within the band of reasonable responses that a reasonable employer in the circumstances would adapt Iceland Frozen Foods v V Jones (1982) IRLR 439. The Tribunal must not substitute its view for that of a reasonable employer (Foley v Post Office; Midland Bank PLC v Madden (2000) IRLR 82). This applies both to the decision to dismiss and the investigation which preceeded that decision (Sainsbury's Supermarket v Hitt (2003) IRLR 23).

Conclusions

66. The first Burchell question is whether at the time of dismissal the employer believed the employee to be guilty of misconduct. The second Burchell question is whether at the time of dismissal the employer had reasonable grounds for that belief. The third Burchell question is whether at the time that belief was formed, the employer had carried out as much investigation as was reasonable in the circumstances.

67. The Tribunal must then consider whether in dismissing the employee the employer acted within a band of reasonable responses.

68. The Claimant accepted that any serious breach of health and safety was a matter of gross misconduct, and that the Respondent took matters of health and safety very seriously. On SH having a 'near miss' incident, statements were taken from him and from AR, both of which underwent training/assessment with the Claimant shortly before the 'near miss' incident and where both SH and AR were returning from a period of long-term absence which triggered the requirement for the training/assessment. It is of

course the case that SH had an ulterior motive for alleging he had not been properly trained (he himself was under investigation because of the near miss incident), however there was no reason for AR to make a similar allegation. He had no 'axe to grind' with the Claimant and essentially was implicating himself when he gave his account (in that he had signed the assessment forms to say he had in fact had the training).

69. On receiving SH and AR's accounts, the Respondent was bound to investigate. It nominated Zohra Rashid, whose background is in health and safety, to do this.

70. Zohra Rashid spoke with AR to satisfy herself as to what he was saying. He was independent and had nothing to gain by implicating the Claimant. She obtained the assessment forms which only contained Ops29 forms for a vehicle said to be R201. There were no other Ops29 forms contained within the training records.

71. She invited the Claimant to 2 investigation meetings, clearly setting out in writing in advance what the allegation was. The Claimant did not at the first meeting make any contention that the Ops29 forms held with the training records were a mock test. He said he had had a text message or call from SS about which vehicle to use for the practical assessment.

72. Zohra Rashid took steps to interview both SS and PB as to their knowledge of which vehicle might have been used. She carried out checks to locate vehicle R201 (and even R210). She met again with the Claimant to explain she had been unable to locate the vehicle used.

73. Her investigation was thorough and entirely reasonable. She had 2 operatives alleging they had not undertaken the practical assessments, one of whom had had an accident shortly thereafter. She could not identify any vehicle on which the assessment had taken place. It was entirely reasonable to refer matters to a disciplinary hearing. The Claimant would have been clear at the investigation stage as to the allegations he was facing.

74. The Respondent went further at the disciplinary hearing stage. Jason Chandler adjourned the hearing to locate the books for the vehicles in use at the time of the training to ascertain whether any Ops29 form existed that would evidence the training. He shared these books with the Claimant and his trade union representative. The Claimant's suggestion that SH (or AR) may have hidden or destroyed the book was implausible. SH may have had reason to do this but there is no evidence that AR did.

75. When the decision to dismiss was made the Respondent had carried out as much investigation as was reasonable and had formed the reasonable view (in light of SH and AR's allegations and the lack of an Ops29 form evidencing

that a practical assessment had taken place) that the Claimant had failed to carry out the practical assessment. This is a serious health and safety matter.

76. Turning now to the question of sanction, I accept the Claimant had an unblemished disciplinary record at this time and that there was no evidence of any other failings on his part in relation to assessments. However, in my view given the reasonable conclusion of misconduct, dismissal was within a range of reasonable responses. It was part of the Claimant's role to ensure training was carried out to the Respondent's standards and in accordance with its procedures. The Respondent formed the reasonable view he had not done this, that this was a serious breach of health and safety, and that dismissal was the correct response. I agree that dismissal, on these facts, was clearly an option for the Respondent and was within the band of reasonable responses open to it. As the Respondent was entitled to summarily dismiss the Claimant the claim for wrongful dismissal/notice pay also fails.

77. For the reasons above the claims are dismissed.

Judge Hindmarch
23 August 2023