



EMPLOYMENT TRIBUNALS

Claimant: Ms G Addo
Respondent: Serco Ltd
Heard at: East London Hearing Centre (via CVP)
On: 9 November 2023
Before: Employment Judge Whittall

Representation
Claimant: Mr R Bullock (Counsel)
Respondent: Ms W Miller (Counsel)

RESERVED JUDGMENT

The claim of unfair dismissal is not well founded and is dismissed.

REASONS

1. The Claimant presented an ET1 on 17 May 2023 claiming she was unfairly dismissed by the Respondent.
2. The Claimant was employed by the Respondent from November 2007. She was a catering manager at Newham General Hospital, where Serco, the Respondent, provided catering services.

The issues in the case

3. Both parties accepted that the Claimant was an employee with over two years continuous service and that she was dismissed on 4 January 2023. The Claimant's case was that the Respondent's belief was not based on reasonable grounds and there had not been a reasonable investigation or reasonably fair procedure. In particular, apart from one allegation of theft on 14 October 2022, the allegations were unspecified, unreliable and unverified and could not be relied on. The Claimant also considered the use of the Respondent's disciplinary policy as opposed to their bullying and harassment policy to be unfair and that the individuals involved in the disciplinary and appeal process were biased. Finally, the decision to dismiss did not

fall within the band of reasonable responses given the Claimant's mitigating circumstances, in particular her lengthy service with no other disciplinary matters.

4. The Respondent's position is that the only reason for dismissal was conduct, that this was a reasonable decision and a fair process was followed.

The Hearing

5. The hearing took place by CVP. The Claimant attended alongside her counsel in order to ensure she could join the hearing. All of the parties and witnesses managed to access the video platform without any significant difficulties.
6. The parties had agreed and provided me with a bundle of 128 pages of documents. The Claimant, Mr Nazir and Mr Tafadar had all provided witness statements.
7. During of the hearing I heard from:
 - a) Mr Nazir – General Manager at Newham Hospital; and
 - b) Mr Tafadar – Operations Director for Barts Health NHS Trust; and
 - c) the Claimant.
8. At the conclusion of hearing evidence, each party made oral submissions. Due to time restrictions, the Respondent also submitted written representations. Claimant's counsel agreed to this and confirmed that, in the event they wanted to respond to anything contained within the written submissions they would do so in writing. No further written submissions were received. I will not repeat those submissions here but I am going to deal with the main points in my discussions and conclusions below.

Findings of fact

9. When setting out my findings of fact, I will not set out the entirety of the evidence that I heard but will highlight the parts of the evidence necessary for me to make a decision and which seemed the most important. The majority of facts were agreed.

Underlying allegations

10. On 24 October 2022 the Claimant returned to work after a period of leave. During her absence, the Claimant's colleague and supervisee, Ms Addai, had called in sick. On questioning her the reasons for her absence, Ms Addai informed her manager that the Claimant had been bullying her, summarised below:
 - a. The Claimant had asked Ms Addai to take teabags and other items to Heather Ward and this was part of a scheme whereby the Claimant then took the items home.
 - b. That she had sent Ms Addai on personal errands to do shopping for her in working hours.
 - c. The Claimant had asked Ms Addai to prepare patient's food for the Claimant to eat.

- d. When Ms Addai refused to do further such tasks that the Claimant changed her treatment of her, confronted her with the conversation ending in a loud manner.
11. Ms Addai signed a statement dated 20 October 2022 detailing the allegations.
 12. On her return to work, the Claimant was informed of the allegations and suspended pending the outcome of a disciplinary investigation.

The investigation

13. One of the Respondent's employees, Shafia Khanom, a Domestic Operations Manager, was appointed to investigate the allegations against the Claimant. As part of her investigation, Ms Khanom interviewed the Claimant with her union representative present, Ms Addai and six other members of staff. She also viewed CCTV footage of the one incident in question where the Claimant was accused of ordering Ms Addai to take 1100 tea bags to Heather Ward, the accusation being that the Claimant then took them home without permission.
14. In summary, Ms Khanom gathered statements from and interviewed the following individuals:
 - a) Ms Addai who told her that the Claimant would ask her to do favours which would make her uncomfortable, for example cook patient food and provide it to the Claimant, asking her to go to a meat shop and buy things for her during work hours, take items such as tea bags and sugar to Heather Ward when they had not been ordered, on 14 October 2022 asking her to take a JD sports reusable bag and tea bags to Heather Ward. When she gave it to Ms Dufi, Ms Dufi told her if the Claimant gives her anything in a bag not to give it to her. Ms Addai stated that her line manager asked her if she was cooking food for the Claimant and so after that conversation she refused to do it again. After that the Claimant's behaviour changed towards her including talking loudly in the corridor to her.
 - b) Mr Hussain, a storeman who the Claimant said was present on 14 October 2022 when the Claimant asked Ms Addai to take the teabags to Heather Ward. Mr Hussain simply said staff often go to the storeroom to collect orders;
 - c) Ms Aluko, the ward host who the Claimant stated had ordered the tea bags in question. Ms Khanom asked Ms Aluko if she had placed an order for tea bags as the IT system used for managing orders did not show that any order had been made for Heather ward. Ms Aluko stated that she had not placed an order for tea bags in the three weeks prior to the incident in question;
 - d) Ms Dufi who said the JD sports bag was hers, she had given it to the Claimant with Avon products. On the day Ms Addai brought it to Heather Ward, she told Ms Addai not to bring her any bags the Claimant gives her and that the bag had teabags inside it.
 - e) Interviewed Ms Serwaah, a ward host. Ms Serwaah stated that Ms Addai had told her the Claimant instructed her to do things like warm food for her and

collect things from storage for her everyday. She also said that Ms Addai changed from being happy at work to being unhappy and stressed;

- f) Interviewed Ms Krishna, a ward host who reportedly said that on several occasions during quiet times on the shift pattern she saw the Claimant take stock out of the storeroom which was not in the order system. She also stated she had seen Ms Addai in a meat shop in Canning Town area whilst she was wearing her work uniform and during one of her long shifts. Ms Krishna stated the Claimant would have meals with other staff members during work hours when it was not their meal time. Ms Krishna also stated that the Claimant approached her in an aggressive manner and said she should not spread rumours and that she can do as she pleases as she is the supervisor.
 - g) Considered a statement provided by Ms Thompson who gave background information about Ms Addai's work and that ward hosts are often having to collect missing items for food orders.
 - h) Reviewed CCTV of Heather Ward on 14 October 2022 which Ms Khanom stated should Ms Addai entering Heather Ward with the bag in question and the Claimant later leaving with it. On both occasions the bag was not in the kitchen.
 - i) Interviewed the Claimant, with her union representative present. Please see the paragraph below for what the Claimant said.
15. The investigation report summarises what the Claimant told Ms Khanom. The Claimant denied all allegations that she had asked Ms Addai to run personal errands for her or bullied or harassed her in anyway. In relation to the theft allegation, the Claimant denied the allegation and said that she had asked Ms Addai to take tea bags to Heather Ward as Ms Aluko, who worked on Heather Ward, had ordered them. The Claimant told Ms Addai to give the items to Ms Dufi, another colleague who worked on Heather ward. The Claimant explained that the bag in question was hers and she wanted Ms Addai to give it to Ms Dufi because she had ordered some Avon products from Ms Dufi. The Claimant said that when she took the bag at the end of her shift it had Avon products in it, not the teabags in question.
16. The investigation report concluded that the Claimant had bullied and harassed Ms Addai by sending her on personal errands and being verbally abusive towards her and had stolen, namely taking work stock out of the building for personal use. It recommended disciplinary action should be taken.

The disciplinary proceedings

17. Prior to commencing the disciplinary proceedings, a decision was made with advice from the Human Resources team to follow the disciplinary policy as opposed to the bullying and harassment policy. Both Mr Nazir and Mr Tafadar gave evidence that this was due to the combination of accusations against the Claimant, which included theft. I find that this was the reason for invoking the disciplinary policy. Whilst the Claimant alleged that they should have followed the bullying and harassment policy and this is in the context of her claim that there was bias against her, I find that Mr Nazir was following HR advice on this point and that he accepted the advice because

there was a combination of accusations against the Claimant, including theft. Whilst the Claimant has made a general assertion of bias, I did not have sight of anything specific to undermine Mr Nazir's evidence on this point and his evidence was credible on this point. Therefore, I accept their reasoning why it was used and will deal with the reasonableness of this below.

18. Mr Nazir was appointed to conduct the disciplinary proceeding. He viewed the CCTV footage as part of the process and described it. He described the CCTV footage showing Ms Addai taking the bag in question to Heather ward where she met Ms Dufi and went past the kitchen into a different room with the bag. Mr Nazir then gave evidence that he saw the Claimant collect the bag later and leave with it. Mr Nazir described the bag as being the same dimensions as when Ms Addai carried it into Heather Ward but with the addition of an orange hospital waste disposal bag covering the contents. I did not have sight of the CCTV but accept Mr Nazir's description of what he viewed as an accurate reflection of his interpretation of the CCTV, which is the relevant issue for me to determine. The two stills I had sight of support Mr Nazir's account in that the bag is similar in size and dimensions with the addition of an orange bag covering the contents. Furthermore, the Claimant did not challenge Mr Nazir's account of what happened in the CCTV, her challenge was that the Respondent could not know what was in the bag at the point that she was seen leaving with it at the end of her shift and she was able to point out the differences in the bag in the still of when Ms Addai was carrying it to the still of when she was carrying it some hours later.
19. The Claimant alleged that the system used for managing and monitoring stock, Saffron, was unreliable. Mr Nazir gave evidence that he considered it is accurate and all orders are put through this system as it is how they keep track of stock and billing. He described it as a robust system. He has never had anyone tell him there is a problem with the system. Mr Nazir confirmed that he checked the system to see if an order had been made at the appropriate time for Heather Ward. In any event, even if it was not robust, Ms Aluko herself stated that she did not order the teabags which directly undermined the Claimant's explanation.
20. After the hearing, Mr Nazir conducted two additional investigatory steps. Firstly, he double checked with Ms Aluko whether she had in fact ordered the tea bags. Secondly, he spoke to Ms Addai to confirm the accusation that the Claimant had ordered her to go to the butchers to buy meat for the Claimant's personal use during work hours. Ms Addai confirmed this was correct and stated that the Claimant had also asked Ms Gokoh to do the same. Mr Nazir also asked Ms Gokoh who confirmed that was correct.
21. Mr Nazir gave evidence that he had a lot of faith and trust in the Claimant from his previous dealings with her. He remained impartial and made an informed decision after considering all of the evidence before him. He said he did not make the decision easily. He felt uncomfortable with it because of his trust and confidence in the Claimant. He said he was open minded and explored all avenues. He was clear he based his decision on the balance of probabilities. It was put to him that he preferred one account over another but that is exactly the task Mr Nazir had to do and he gave reasons for preferring Ms Addai's account.
22. It was put to Mr Nazir that he was biased and approached the process and Claimant with suspicion. I find that Mr Nazir was not biased or overly suspicious in

his conduct. I make this finding because there is no reason or evidence to suggest that Mr Nazir was biased other than that the Claimant did not like his decision. He gave a credible account with detailed explanation including how he felt personally about the matter.

23. On 4 January 2023, Mr Nazir sent the Claimant the outcome letter which provides a detailed explanation of his reasoning and that his decision was to terminate her employment on the grounds of gross misconduct.

The appeal process

24. The Claimant exercised her right to appeal with the support of a union representative. On 11 January 2023 she submitted an appeal on a number of grounds, including that the punishment was too harsh, the serious implications on the Claimant and her family, including her disabled child, the fact that this was dealt with under the disciplinary policy as opposed to bullying and harassment policy, various procedural errors and that the accusations did not make sense.
25. Mr Tafadar, who was Mr Nazir's line manager, was appointed to conduct the appeal. Mr Tafadar considered all of the evidence and viewed the CCTV footage. Mr Tafadar held an appeal hearing on 2 February 2023 and the Claimant attended with a union representative. After the hearing he sent a detailed letter dated 13 March 2023 responding to each appeal point and confirming the outcome of the disciplinary process.
26. Mr Tafadar was questioned about whether or not he was biased as he was Mr Nazir's line manager. Mr Tafadar gave evidence that he had a professional relationship with Mr Nazir and was able to make his decision independently. I find that Mr Tafadar was not biased, apart from the Claimant disagreeing with the outcome, there is no evidence to suggest he was biased and the fact that he was Mr Nazir's line manager at the time does not by itself suggest bias. Mr Tafadar gave evidence that he made his decision based on all of the evidence. He accepted that the sanction was the most severe but her mitigating circumstances, including her clean disciplinary record, length of experience and impact on her of being dismissed were taken into account.

Other points

27. When giving evidence the Claimant made the following assertions:
 - 16.1 A general assertion that she was not listened to during the disciplinary proceedings;
 - 16.2 That a colleague called Aveghail Thompson was the perpetrator of false allegations against her;
 - 16.3 That she had asked Ms Addai to take the tea bags to the kitchen.
28. The Claimant's oral evidence was not clear but the implication was she tried to put forward these accounts. In relation to each of these, I make the following findings. Firstly, the Claimant had three opportunities to put forward her account, the interview with the investigator, the disciplinary hearing and the appeal hearing. At all three she

had a union representative supporting her. The notes of all three of these events do not evidence that the Claimant stated any of these three matters. The outcome of the disciplinary process letter summarised the account the Claimant put forward during the disciplinary hearing, namely that she couldn't understand why Ms Addai would make these allegations against her and that her attitude changed towards Ms Addai because she had been rude to a different colleague.

The relevant law

Relevant statutory provisions

29. The right not to be unfairly dismissed is provided for by section 94 Employment Rights Act 1996 ("ERA").
30. The right not to be unfairly dismissed is only available to those who have been continuously employed for at least two years or those dismissed for what are referred to as automatically unfair reasons. It was accepted that the Claimant had been continuously employed for at least two years and had been dismissed.
31. The test to be applied in determining the Claimant's claim of unfair dismissal for a misconduct dismissal is set out in section 98 ERA:
 - (1) *In determining for the purposes of this Part whether the dismissal of an employee is fair or unfair, it is for the employer to show—*
 - (a) *the reason (or, if more than one, the principal reason) for the dismissal, and*
 - (b) *that it is either a reason falling within subsection (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.*
 - (2) *A reason falls within this subsection if it— ...*
 - (b) *relates to the conduct of the employee,*
32. This is the first part of the test and the burden of proof is on the Respondent to show the reason for the dismissal was misconduct. If the Respondent establishes that the reason for dismissal for misconduct, the second part of the test is to consider the reasonableness of the decision. The test is neutral, meaning that the burden to establish this is not on the Claimant or Respondent, but is for the Tribunal to determine (*Boys and Girls Welfare Society v McDonald* [1996] IRLR 129.).
33. In doing so, the applicable test is set out section 98 ERA, as follows:
 - (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 employee, and*

(b) shall be determined in accordance with equity and the substantial merits of the case. [emphasis added]

Relevant case law

34. Where the reason, or principal reason, for the dismissal is conduct then it will usually be necessary to have regard for the guidance set out in *British Home Stores Ltd v Burchell* [1978] IRLR 379, which lays down a three-stage test:
 - (ii) the employer must establish that he genuinely did believe that the employee was guilty of the misconduct;
 - (iii) that belief must have been formed on reasonable grounds; and
 - (iv) the employer must have investigated the matter reasonably. Following amendments to the statutory scheme the burden of proof is on the employer on point (i) (which goes to the reason for the dismissal) but it is neutral on the other two points.
35. If the employer is unable to show that a dismissal was for a potentially fair reason, then the dismissal will always be unfair. If the Respondent discharges burden is discharged, as set out above, the tribunal must go on and apply the test of fairness set out in sub-section 98(4) ERA set out above.
36. In applying section 98(4) ERA, the correct test is whether the employer acted reasonably, not whether the tribunal would have come to the same decision itself. In many cases there will be a 'range of reasonable responses', so that, provided that the employer acted as a reasonable employer could have acted, the dismissal will be fair: *Iceland Frozen Foods Ltd v Jones* [1982] IRLR 439. That test recognises that two employers faced with the same circumstances may arrive at different decisions, but both of those decisions might be reasonable.
37. The range of reasonable responses test applies to any investigation and the procedure followed as well as the substantive decision to dismiss as the penalty *Sainsbury's Supermarkets Ltd v Hitt* [2003] IRLR 23.
38. In terms of the reasonableness of the investigation and the procedure that was followed, the "relevant circumstances" referred to in Section 98(4) include the gravity of the charge and their potential effect upon the employee *A v B* [2003] IRLR 405, *Salford Royal NHS Foundation Trust v Roldan* [2010] ICR 1457 and *Crawford v Suffolk Mental Health NHS Partnership Trust* [2012] IRLR 402. *A v B* also provides authority for the proposition that a fair investigation requires that the investigator examines not only the evidence that leads to a conclusion that the employee is guilty of misconduct but also that which tends to show that they are not.
39. The question of what investigation the Respondent should have carried out in the context of the defence that the Claimant was advancing *Brian Stuart v London City Airport Limited* [2013] EWCA Civ 973

Conclusions

40. In this matter, there was no dispute that the Claimant was an employee with more than two years continuous service and no claim that she was dismissed for an automatically unfair reason. It was also agreed that the Claimant was dismissed.
41. Therefore, applying the above legal principles to this case, the first question I have answer is whether the Respondent has discharged the burden of establishing that reason, or principal reason, for the dismissal of the Claimant was misconduct.
42. In deciding whether the Respondent had discharged this burden, I have considered the questions set out in paragraph 37 above. For the reasons set out below, I conclude that the Respondent did establish that the reason for dismissal was conduct.

Did the Respondent investigate the matter reasonably?

43. The Claimant's complaints about the investigation process can be broadly summarised as follows:
 - 53.1 That the Respondent followed disciplinary policy as opposed to bullying and harassment policy, contrary to normal practice;
 - 53.2 That the decision makers were biased, as evidence by their findings on the vague and unspecified allegations;
 - 53.3 That Mr Tafadar was not sufficiently independent of Mr Nizar.
44. Mr Nizar explained why the disciplinary policy was followed, as opposed to the bullying and harassment policy. The Claimant did not explain the importance of this in evidence or submissions but from my reading of the policies I note that mediation is a potential outcome when the bullying and harassment policy is engaged. However, the disciplinary policy also makes it clear that bullying and harassment can lead to disciplinary proceedings. This was an appeal ground and Mr Tafadar expressly responded to that point in the appeal outcome letter, explaining that due to the number and combination of accusations it was felt that the disciplinary policy was the appropriate procedure to follow. I find that this is reasonable where there is also an allegation of theft being considered. Whilst it was a low value, theft is still a dishonesty matter and even low value theft can reasonably be considered gross misconduct. The Respondent's disciplinary policy lists theft as an example of gross misconduct evidencing that the Respondent will take allegations of theft seriously. Furthermore, the ACAS Code of Practice on disciplinary and grievance procedures gives theft as an example of gross misconduct supporting the Respondent's approach.
45. The Claimant asserted that Mr Tafadar, as Mr Nazir's line manager, wasn't sufficiently independent to conduct the appeal because he was Mr Nazir's line manager. It was also put to him that he was friends with Mr Nazir, although Mr Tafadar disputed that and maintained that his only contact with Mr Nazir was work related. Either way, what is important is that the person conducting the appeal had no prior dealings with the disciplinary process, and is able to reach their own decision

on the information before them and conduct a fair appeal process. I do not agree that being Mr Nazir's line manager meant that Mr Tafadar was not sufficiently independent to conduct the appeal. He made it clear that he was making a fresh decision and explained his reasoning in the appeal outcome letter.

46. In terms of the reasonableness of the investigation more broadly, I find that the Respondent did conduct a reasonable investigation for the following reasons:
- a) The investigation was thorough and reflected the serious potential consequence for the Claimant. The Respondent took steps to interview a number of different people with potentially relevant evidence, including Mr Nazir speaking to two individuals after the disciplinary matter to clarify points raised by the Claimant. The Respondent also viewed the relevant CCTV and looked into the ordering system;
 - b) The Claimant was invited to a disciplinary hearing, re-arranged to her convenience, and was allowed to bring a union representative with her;
 - c) The Claimant was given an opportunity to appeal to a more senior member of staff and again allowed to bring a union representative with her for the appeal hearing.
47. The Claimant did not put forward any additional investigatory steps that they considered the Respondent should do, the Claimant's case was that the Respondent's decision was unreasonable.

Did the Respondent establish that he genuinely did believe that the Claimant was guilty of the misconduct

48. I will first deal with the theft allegation. In order for Mr Nazir to believe that the Claimant had stolen from the Respondent, Mr Nazir had to believe that the contents of the bag Ms Addai had taken to Heather Ward was the same when the Claimant was seen taking the bag out at the end of her shift later on that day. Mr Nazir was questioned extensively on this point. In particular the point was made to him that in the first CCTV still there appears to be a brown item sticking out of the top. In the CCTV still when the Claimant is seen later on with the bag, the contents are covered by an orange bag, which all parties agreed was a hospital clinical waste disposal bag. Mr Nazir explained that on reviewing the footage he considered the dimensions and the way it was filled was the same when Ms Addai was carrying it as when the Claimant was apart from the addition of the orange bag.
49. I do not consider that the agreed fact that it appears there was something poking out of the top in the morning which is then not visible in the afternoon means that Mr Nazir could not have genuinely believed that the contents of the bag were the same. Mr Nazir gave evidence that the orange bag was placed over it. Mr Nazir confirmed that he did consider the Claimant's account, namely that the tea bags were taken to Heather Ward appropriately and the bag was then used to fill with Avon products the Claimant had bought from Ms Dufi. Mr Nazir also explained that he reached the conclusion that the bag contained the tea bags when the Claimant left the building due to a number of factors, including that both Ms Aluko and the Saffron system evidenced that Ms Aluko had not put in an order for tea bags as the Claimant claimed

and that Ms Dufi had told Ms Addai not to bring her anything that the Claimant asked her to.

50. In relation to the bullying allegations, Mr Nazir was questioned on how he could have reached the decision he did given the bullying allegations were vague and undated. Mr Nazir explained that he reached his decision not just on the basis of what Ms Addai said but also on the statements of other colleagues who also corroborated her account. For example, one colleague said that she had also been asked to go and buy personal items for the Claimant during work hours.
51. Mr Tafadar also gave evidence that he had formed his belief on the evidence contained in the disciplinary bundle as a whole. In light of my above conclusions, I also accept he genuinely believed the Claimant was guilty of the misconduct. I did not see any evidence to suggest Mr Tafadar held any other beliefs.
52. On a balance of probabilities I find that both Mr Nazir and Mr Tafadar did genuinely believe that the Claimant was guilty of the misconduct she was accused of. Both the disciplinary and appeal outcome letters are lengthy and provided detailed explanation of how they have reached their decisions. Apart from a general accusation that they were biased which I have dealt with at paragraphs 22 and below, there is no alternative explanation for why they would have terminated the Claimant's contract without this belief, particularly as the Claimant had no previous disciplinary records.

Did the Respondent form the belief on reasonable grounds?

53. In answering this question I repeat that I am not deciding whether or not the Claimant was in fact guilty of the misconduct she was accused of, but whether it was reasonable for the Respondent to form this belief.
54. The Claimant's main criticism was that, apart from the incident of theft on 14 October 2022, the allegations of bullying and harassment were vague and undated. Mr Nazir accepted that in an ideal world he would have had dates and times but that when bullying or harassment happens over a period of time then you often don't have it.
55. Whilst I accept that the allegations were undated and, at least the one about the Claimant changing her behaviour towards Ms Addai, were vague and, on their own, would not have justified reaching the conclusions Mr Nazir did, the other allegations were not vague. Ideally dates would have been established for the Claimant to consider her position, but what the Claimant was accused of was clear.
56. The investigation was a reasonable one and involved interviewing six colleagues, almost all of whom had evidence that corroborated Ms Addai's account. CCTV was viewed. Mr Nazir confirmed that he considered all of the material and took additional investigatory steps after the hearing before reaching his final decision. The Claimant was informed about these additional steps in the disciplinary outcome letter and she could challenge this information during the appeal. Mr Tafadar considered the material available and considered and responded to each of the Claimant's grounds of appeal.
57. Therefore, the reasonable belief was formed on the basis of reasonable grounds.

Was the outcome reasonable?

58. I then need to consider whether the decision to dismiss the Claimant was a reasonable one for the Respondent to make. I am not considering what outcome I would have reached in these circumstances, I am deciding whether the dismissal fell within a range of reasonable responses, both procedurally and substantively. Procedurally, it was within the range of reasonable responses for the reasons I set out above. Substantively, I note that the Respondent's disciplinary policy gives theft as an example of gross misconduct. Whilst the theft was of a low value, it is an issue of honesty and, particularly taking into account the fact that this was one of a number of allegations that were found proved against the Claimant, it cannot realistically be argued that the decision to dismiss falls outside the range of reasonable decisions. Therefore I find that the complaint of unfair dismissal is not well founded and the claim is dismissed.
59. I understand that the Claimant will be disappointed by this result. As I said at the start of the hearing, I am not determining whether or not she committed the acts she was accused of but whether the Respondent's believed that she had and had acted appropriately in their consideration of the matter.

**Employment Judge Whittall
Date: 4 December 2023**