



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss J Downes

**Respondent:** The Knowles Care Home Ltd

**Heard at:** Birmingham (by CVP)

**On:** 5 February 2024

**Before:** Employment Judge Edmonds

## Representation

Claimant: Did not attend

Respondent: Mr L Fakunle, solicitor

**JUDGMENT** having been sent to the parties on **28 February 2024** and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

# REASONS

## Introduction

1. The claimant was employed as a deputy manager at the respondent care home between 23 October 2018 and 30 October 2022, when she was dismissed for gross misconduct. ACAS early conciliation commenced on 17 November 2022 and the certificate was issued on 29 December 2022, with the claimant's claim form being issued on 27 January 2023.

## Claims and Issues

2. This was a claim for unfair dismissal. Before we started hearing any evidence, I clarified the issues to be determined with the respondent's representative (the claimant not having attended the hearing). The respondent accepts that it did dismiss the claimant and the issues to be determined were therefore as set out below:
  - i. What was the reason or principal reason for dismissal? The respondent submitted that the reason was conduct, or in the alternative some other substantial reason, which are potentially fair reasons for dismissal. The Tribunal will need to decide whether the

respondent genuinely believed the claimant had committed misconduct.

- ii. If the reason was misconduct, did the respondent act reasonably or unreasonably in all the circumstances, including the respondent's size and administrative resources, in treating that as a sufficient reason to dismiss the claimant? The Tribunal's determination whether the dismissal was fair or unfair must be in accordance with equity and the substantial merits of the case. It will usually decide, in particular, whether:
  - i. there were reasonable grounds for that belief;
  - ii. at the time the belief was formed the respondent had carried out a reasonable investigation;
  - iii. the respondent otherwise acted in a procedurally fair manner;
  - iv. dismissal was within the range of reasonable responses.
3. Issues relating to remedy would be considered if the claimant was successful in her claims.
4. On reviewing the file before hearing evidence, it became apparent that a letter had been sent to the claimant indicating that she had less than two years' service and may therefore have been unable to pursue her claim. I agreed with the respondent that this was an error on the Tribunal's part as she did have over two years' service.

### **Procedure, documents and evidence heard**

Claimant's non attendance / application for strike out

5. The claimant did not attend the hearing. She had emailed the Tribunal (but not the respondent) the evening before the hearing to say that she would not be able to attend the hearing due to anxiety. In her email she provided a long paragraph setting out her account of what happened in relation to the matters which led to her dismissal, which she said was her witness statement.
6. Before the hearing started, I arranged for the email to be forwarded to the respondent and wrote to the claimant to ask her whether she was requesting a postponement or for the hearing to go ahead in her absence. I clarified that if the hearing did go ahead in her absence, this would be likely to impact the weight of her witness evidence, and asked whether there were any adjustments the Tribunal could take to assist her to attend, such as additional breaks. I recommended strongly that the claimant join the start of the hearing so that the matter could be discussed further.
7. The claimant replied at 8.48am, saying that she would rather the hearing went ahead without her. At the start of the hearing, I therefore discussed the matter with the respondent's representative. He submitted (and provided

evidence to demonstrate) that the claimant had not complied with the Tribunal's orders in relation to the preparations for hearing either (which had in fact led to an application from the respondent to strike out the claimant's claim on the basis of her non-compliance, which had not as yet been dealt with by the Tribunal. The respondent's representative indicated that the claim should either be struck out or proceed in the claimant's absence (and not postponed).

8. Given that the application for strike out and the claimant's non-attendance were in effect interlinked, I addressed them together. Under Rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 ("the ET Rules"), where a party does not attend a hearing, the claim may be dismissed or the matter may proceed in the absence of that party. Postponement is also of course an option available to the Tribunal. I determined that postponement was not appropriate given that the claimant had not herself requested a postponement, and given the apparent history of non compliance which led me to not be confident that the situation would change at a future date.
9. I did not however consider that it was in the interests of justice to strike out the claimant's claim under Rule 37 of the ET Rules, or to dismiss the claim under Rule 44 of the ET Rules. Whilst the claimant had not complied with orders, it was clear from what I had seen that she had made some attempt to contact the Tribunal and to provide an email which she said was a witness statement. It was clear that she had not completely abandoned her case. There was still the possibility of a fair hearing in her absence and the respondent was present and ready to defend the claim. Given that it is for the respondent initially to show that there was a potentially fair reason for dismissal, the claimant being absent did not render her case impossible to succeed. I therefore determined that it would be in accordance with the Overriding Objective to deal with cases fairly and justly to proceed in the claimant's absence.
10. Once the decision had been made to proceed without the claimant, she was sent further correspondence from the Tribunal confirming that this was the case. In the email it was also explained to the claimant that evidence would start at 12pm and that if she wished to challenge the respondent's evidence she could still join at that time to do so. I made clear to her that if she was not present to challenge the respondent's witnesses I would not know whether she agreed or disagreed with any of the points made in their statements. The claimant did not join the hearing.
11. In reaching my conclusions on this case, I noted that the respondent therefore did not have the opportunity to cross examine (question) the claimant about her witness statement. Therefore, if the statement was accepted in full, the respondent would be prejudiced by that. I also noted that the claimant's statement appeared to request that some further analysis of the respondent's "fluid records" be carried out and clarified that the purpose of this hearing was to determine the claim and it was not appropriate to now start carrying out further investigations into the matter: that is something that should have been raised some time ago if relevant. I was mindful that, although there was no medical evidence to support her assertion, the claimant's stated reason for non-attendance was due to

anxiety and therefore I decided not to discount her witness statement entirely, but to attach limited weight to it.

12. Although the hearing was listed for two days, we were able to complete the hearing in one day given the absence of any cross examination.

#### Documents and Evidence

13. The respondent provided a file of documents amounting to 324 pages, and references to page numbers in these Reasons are to the relevant page of that file. I made clear to the respondent at the hearing that I would not be reading the file in full, but only those documents I was referred to. In response to that, the respondent's representative provided me with a list of key documents to read before evidence started, which I did.
14. In addition, the respondent provided witness statements from Mr Abbas Nurmohamed and Mr Hassanali Nurmohamed, both of whom are directors of the respondent. As outlined above, the claimant provided an email which she said contained her witness statement. Mr A Nurmohamed and Mr H Nurmohamed both gave evidence at the hearing, however the claimant did not as explained above.

#### Findings of fact

15. The claimant was employed as a deputy manager at the respondent care home, which specialises in the care for persons over sixty five who may have dementia and require personal care. Mr A Nurmohamed and Mr H Nurmohamed are both directors at the respondent and had taken over the running of the care home on 9 September 2022. The claimant had originally started as a care assistant but was promoted to deputy manager at some point prior to Mr and Mr Nurmohamed taking over the running of the care home. Mr A Nurmohamed and Mr H Nurmohamed did not change the operational matters relating to the respondent after taking over. The respondent has an employee handbook to which employees are subject, which includes a detailed disciplinary procedure (page 306). Examples of gross misconduct in that procedure include: "maltreatment of residents; by neglect, omission and/or commission", "negligent or deliberate failure to comply with the requirements of the organisation's policy and procedure concerning medicines", and "any act or omission constituting serious or gross negligence/or dereliction of duty".
16. On the weekend of 8 and 9 October 2022, the manager, Ms Lisa Halford, was not scheduled to work and therefore responsibility for running the care home during those shifts would fall to the claimant, accompanied by senior care staff, in particular Ms Melissa Bennett.
17. A number of issues came to light over the weekend. The initial matter that was raised was that one of the service users at the respondent suffered a fall on 8 October 2022 and Ms Halford reported to Mr A Nurmohamed that the incident was not reported or recorded by the staff that night. The claimant had been the duty manager during the shift in question and the service user's family reported the matter to Ms Halford. It also came to light that there were a number of other alleged issues that weekend, including

medication running out, daily controlled drugs counts not having been done despite it having been a daily requirement for the past five months, and other general concerns such as lack of sufficient fluids and showers being given to residents.

18. An investigatory meeting took place with the claimant on 10 October 2022 (page 244). At that meeting, the allegations were put to the claimant. In response, the claimant provided the following explanations:
  - a) In relation to lack of fluids, the claimant said that she could not be responsible for the whole day;
  - b) In relation to the medication running out of stock, the claimant said that she had not been aware that they were running out;
  - c) She accepted that she did not do a head injury form for the resident in question;
  - d) She denied leaving insulin left in an unlocked place;
  - e) She said that she did a controlled drug count after Ms Halford had called her;
  - f) In relation to residents' showers she said that the staff had a list of who to shower and that the agency staff used did not document things properly; and
  - g) More generally in relation to other matters not being documented, she was not able to answer why this was and she stated that the respondent needed to get agency staff to use a particular app as she felt she was babysitting them.
19. It is worth noting that the senior care assistant on duty that weekend, Ms Bennett, also attended an investigatory meeting regarding the events of that weekend, however she then tendered her resignation and so the investigation was not pursued.
20. The claimant was then suspended from work, which was confirmed by letter dated 11 October 2022 (page 246). The allegations under investigation were stated to be:
  - a) Failure to follow processes to safeguard a resident following a fall;
  - b) Failure to oversee the effective running of the shift and delegation of duties;
  - c) Failure to carry out adequate Controlled Drugs count; and
  - d) Failure to maintain adequate medication stocks which resulted in a Resident running out of Medication.
21. The claimant was then invited to a disciplinary hearing by letter dated 13 October 2022 (page 247), with the hearing scheduled to be on 14 October 2022. This repeated the allegations as set out in the suspension letter and also enclosed various documents that would be relevant at the disciplinary hearing along with the disciplinary rules and procedures. Initially therefore the disciplinary hearing was scheduled for the day after the invitation was sent, however it was postponed due to the claimant's representative's availability. The disciplinary invitation letter said that if the allegations were substantiated they would be regarded as gross misconduct and that her employment may be terminated.

22. The disciplinary hearing took place on 21 October 2022 (page 253) and was conducted by Mr A Nurmohamed. Ms Paige Weastell attended as the claimant's representative and Ms Tracey Bates attended to take notes. At the disciplinary hearing the claimant explained that she worked the early shift on 8 October 2022 and that she had written down the number of showers and other matters to be done. She said that she did not do the controlled drug count that morning and that she had not previously had to do them and was still trying to get her head around it. She did however go on to admit that the controlled drug count had been done daily for around five months at the respondent. She then explained that a resident had knocked his head on the wall and that she had called 111, and contacted his daughter and wife. She said that she had in fact done a head observation form and left it on her desk. She said that the rest of that shift had gone well.
23. Turning to the following day, the Sunday, she said that she received a call at 12.30 (before her shift started) saying that another resident had had a fall and that the resident's daughter could not find anyone to talk to. The claimant offered to start work early which she did. The claimant said that Ms Bennett would have been in charge of the documentation for that section of the home and that shift, and that she got information from the resident's daughter and filled in the accident form. She said that staff were "run ragged" during the shift and that when she came in there were residents still in bed as the staff did not have time to get them out of bed, which she addressed, discovering that both of those residents were wet. She said that Ms Bennett had told her that she had had a rough shift and that the claimant could take over from now. She said that the controlled drug count had not yet been done so she then did one. She commented that she could not keep up with tracking fluids due to lack of time to input the information. She said that the medication had run out after Ms Bennett administering it in the morning.
24. The disciplinary outcome was provided by letter dated 25 October 22 (page 256). The second, third and fourth allegations against the claimant were found to be substantiated however the allegation that she had failed to follow processes to safeguard a resident following a fall were not pursued. It was found that:
- a) The claimant was tasked with running the shift on 8 October 2022 but that several residents missed out on personal care due to her not overseeing the running of the shift despite being deputy manager;
  - b) It was five months into the change to daily controlled drug counts and she was still struggling to conduct this; and
  - c) She was not able to oversee the inputting of correct information into the care planning system.
25. However, in the outcome letter it was also stated that due to her long service, Mr A Nurmohamed had decided to be lenient and in these unusual circumstances, was prepared to give the claimant the chance to accept a demotion to care assistant if she wished to accept that as an alternative to dismissal. This is an option set out in the respondent's disciplinary policy, although it is stated to apply in cases other than gross misconduct (page

310). The claimant was told that if she did not accept the demotion her employment would end on 30 October 2022.

26. The claimant appealed by email dated 28 October 2022 (page 263). It was put by the respondent that the claimant was appealing the decision to demote her and not the dismissal decision itself: however I disagree with that assertion. The claimant said “I am writing to formally appeal against the disciplinary penalty you imposed on me on 25 October 2022”. I find that this encompassed both the offer of demotion and the alternative sanction of dismissal.
27. She was invited to an appeal hearing by letter dated 1 November 2022 (page 266) and the appeal hearing took place on 4 November 2022 (page 267). The claimant had been given the right to be accompanied however was not. Ms Bates attended again as notetaker. Mr H Nurmohamed, Mr A Nurmohamed’s father, conducted the appeal hearing. At the appeal hearing the claimant was given the opportunity to explain why she felt the decision was unfair.
28. The appeal outcome was confirmed by letter dated 15 November 2022. Her appeal was not upheld. The letter set out the claimant’s grounds of appeal and addressed each of them in turn, although briefly. This letter referred to her having been offered demotion as an alternative to summary dismissal. The claimant and Mr A Nurmohamed had an email exchange following receipt of this letter, during which it was confirmed that she was not willing to accept a demotion and therefore her original dismissal date of 30 October 2022 would stand. The claimant was therefore dismissed on 30 October 2022.

## Law

29. Section 94 of the Employment Rights Act 1996 (“ERA”) sets out the right not to be unfairly dismissed. In order for a dismissal to be fair, it must be for a potentially fair reason under section 98(2) of the ERA. The burden is on the employer to show what the reason for dismissal was and that it was a potentially fair reason. Conduct is one of the potentially fair reasons.
30. Once a potentially fair reason has been established, section 98(4) of the ERA goes on to provide that:

*“...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.*

The burden of proof at this stage is neutral.

31. In cases relating to conduct the key case is **British Home Stores v Burchell [1980] ICR 303**. There are three aspects to consider:
- a) Did the employer genuinely believe the employee to be guilty of misconduct?
  - b) Did the employer have reasonable grounds for that belief?; and
  - c) Had the employer carried out as much investigation as was reasonable in the circumstances?
32. The Tribunal should also have reference to the ACAS Code of Practice on Discipline and Grievance Procedures 2015, in deciding whether the employer followed a reasonably fair procedure. The whole process should be considered, including any appeal (**Taylor v OCS Group Ltd [2006] IRLR 613**). The employer's size and resources are relevant factors, as is the employee's length of service (**Strouthos v London Underground Ltd 2004 IRLR 636**).
33. The question is not whether the Tribunal would have taken the same action as the employer, but whether what occurred fell within the range of reasonable responses of a reasonable employer, both in relation to the decision itself and the procedure followed (**J Sainsbury plc v Hitt 2003 ICR 111**, and **Iceland Frozen Foods Ltd v Jones 1982 IRLR 439**). The starting point should be section 98(4) of the ERA, and in applying that the Tribunal must consider the reasonableness of the employer's conduct, not simply whether the Tribunal considers the dismissal to be fair. Put simply, the Tribunal must not substitute its own decision about what the employer should have done, and in many cases there is a band of reasonable responses that the employer could reasonably take. It is for the Tribunal to decide whether, in the particular circumstances, the employer's actions fell within that band.
34. If the dismissal was for gross misconduct, the Tribunal should consider whether the employer act reasonably both in characterising it as gross misconduct, and then in deciding that dismissal was the appropriate punishment: **Brito-Babapulle v Ealing Hospital NHS Trust [2013] IRLR 854**.
35. Unfair dismissal is a statutory concept whereas gross misconduct is a contractual concept dependent on a finding of fact about what happened (**West v Percy Community Centre EAT 0101/15**). Whether a matter is categorised as gross misconduct or misconduct could be of some relevance is in relation to the overall test for whether the dismissal was fair or unfair under section 98(4) ERA. In **Hope v British Medical Association 2022 IRLR 206, EAT**, it was held that the test for whether a dismissal is fair or unfair includes consideration of all the circumstances, which might include in some cases whether the conduct relied upon was a breach amounting to gross misconduct, but not in all cases as per **Sandwell and West Birmingham Hospitals NHS Trust v Westwood EAT 0032/09**.
36. If the dismissal is found to be unfair due to (at least in part) the procedure followed by the employer, then in considering the appropriate award of



compensation, regard should be had to the likelihood that the dismissal would have taken place in any event, and the compensatory award may be reduced accordingly (**Polkey v AE Dayton Services Ltd 1988 ICR 142**).

37. If the dismissal is found to be unfair but it is also found that the employee contributed to their dismissal through their conduct, then the basic and/or compensatory awards may be reduced to reflect this under section 122(2) and 123(6) of the ERA.

### Conclusions

38. The claimant was dismissed by the respondent. Although the offer of demotion was made to her, the claimant did not accept that and it had been made clear to her that in the absence of her accepting the demotion, the respondent was dismissing her with effect from 30 October 2022.

### Reason for dismissal

39. I next turn to what was the reason or principal reason for dismissal. I conclude that the reason for dismissal was conduct: the respondent's disciplinary policy clearly includes within the scope of it matters relating to negligence and failure to carry out reasonable instructions, and I conclude that the matters which led to her dismissal were centered around her conduct on the weekend of 8/9 October 2022.
40. It is worth noting at this point that there is some confusion as to whether it was a dismissal for gross misconduct or for misconduct, however that does not change the fact that the reason for dismissal was conduct. The reason I say there was confusion was because:
- a) In evidence Mr A Nurmohamed said that it was a dismissal for gross misconduct;
  - b) The invitation to disciplinary hearing letter said that the allegations would be regarded as gross misconduct (although it is noted that only three of the four allegations were found to be substantiated);
  - c) The appeal outcome refers to demotion as an alternative to summary dismissal, which is a term used to describe dismissal without notice for gross misconduct;
  - d) The disciplinary outcome letter refers to the "allegations of misconduct" and does not refer to gross misconduct
  - e) In submissions the respondent's representative suggested that it could be characterised as misconduct, but with demotion as the alternative to dismissal;
  - f) Although gross misconduct would ordinarily result in dismissal without notice, in this case the outcome was sent to the claimant on 25 October but with a termination date of 30 October 2022. Therefore some notice was provided, although this was not her full statutory notice period based on her length of service.
  - g) In addition, the "General notes" section of the disciplinary procedure states "If you are in a supervisory or managerial position then demotion to a lower status may be considered as an alternative to dismissal except in cases of gross misconduct". Therefore, on the

face of it, it would not be in accordance with the disciplinary policy to offer demotion if this were a case of gross misconduct, although I accept that the disciplinary outcome letter itself did refer to the offer of demotion as an act of leniency in unusual circumstances.

41. This is not a wrongful dismissal claim for notice pay and therefore, even though if I conclude that the dismissal was for misconduct and not gross misconduct, that would appear to mean that insufficient notice was provided to the claimant, that is not part of her pleaded claim to be addressed today. I will return to the question over whether the distinction affects the overall reasonableness in due course.

Did the respondent act reasonably or unreasonably in all the circumstances in treating that as a sufficient reason to dismiss the claimant?

42. First of all, in relation to the respondent's size and administrative resources, I take account of the fact that this is a relatively small employer, which at the time of the respondent's response form employed 24 people. It does however have access to HR advice and operated a detailed employee handbook which included a disciplinary procedure.
43. In relation to the allegations against the claimant, concerns had been raised by a family member of one of the residents about that resident having a fall and, during the course of the investigation, a number of concerns came to light about how the shifts on 8 and 9 October 2022 had been managed. Although some responsibility must fall to the senior care assistant on shift too, there were certainly reasonable grounds based on the information available for the respondent to have reasonable concerns about whether the respondent's care home had been managed appropriately in the absence of the manager during the course of the weekend of 8 and 9 October 2022. As the deputy manager, it was reasonable for the respondent to have those concerns about the claimant.
44. Before reaching a decision, the respondent held both an investigatory and disciplinary meeting with the claimant and she was afforded a right of appeal. She was given the right to be accompanied to both the disciplinary and appeal hearings, and the hearing was rearranged several times to ensure that the claimant's representative was available. I would comment that the initial invitation to disciplinary hearing did schedule the hearing for the following day, which I conclude is insufficient time to prepare for a hearing and find a representative, however given that the hearing was then delayed at the claimant's request I conclude that any flaw in this regard was remedied.
45. During the course of the disciplinary process the claimant was invited to put forward her explanation for what happened, which she did, and she was also provided with documentary evidence in advance of the disciplinary hearing. That said, there do not appear to have been any investigation interviews with any other person, such as other staff on shift at the respondent over the course of that weekend. I consider that it would have been prudent to do so, however I am considering whether the investigation was within the range of reasonable responses and not whether it could have been done differently. I conclude that, although others were not

interviewed, given that it was accepted that the issues which arose during that shift occurred, and the key question was therefore not whether the allegations happened but rather whether the claimant should be blamed for them as deputy manager, I do not consider this to be such a significant flaw as to render the investigation outside of the range of reasonable responses. I find that a reasonable investigation was carried out in the circumstances.

46. Turning to the issue of whether the dismissal was for gross misconduct or for misconduct, in either case accompanied by an option of demotion, I do conclude that the respondent was not altogether clear on this. Having said that, it was clear to the claimant in advance of the disciplinary hearing that at that stage the respondent was considering the matter to be one of gross misconduct, and therefore she had a full opportunity to prepare for the hearing on that basis. Having regard to the wording of the disciplinary policy, the conduct matters of which the claimant was accused, did potentially fall within the scope of gross misconduct, specifically it is stated in the policy that one example of gross misconduct occurs where there is a “maltreatment of residents; by neglect, omission and/or commission”, and “negligent or deliberate failure to comply with the requirements of the organisation’s policy and procedure concerning medicines”, “any act or omission constituting serious or gross negligence/or dereliction of duty”. I conclude that, given the nature of the allegations made against the claimant and the serious potential impact on vulnerable service users, that it was within the range of reasonable responses for the employer to treat the matter as one of potential gross misconduct.
47. In addition, although it was not clearly set out in the outcome letter whether it was being treated as misconduct or gross misconduct, it was made clear to the claimant that the outcome was dismissal with a termination date of 30 October 2022, or demotion as an alternative. It was therefore made clear to the claimant what the sanction was in practical terms. In the circumstances, whilst I think it would have been advisable for the respondent to have been clearer on this, given that the impact of the outcome was made clear to the claimant and given that the claimant understood this fully, I find that the failure to specifically designate in the outcome letter whether it was gross misconduct or whether, in light of one of the four allegations not being upheld, this had changed it to misconduct, does not mean that the dismissal was not within the range of reasonable responses.
48. On balance, however, I conclude that the respondent did dismiss the claimant for gross misconduct; the disciplinary policy states that serious misconduct which is not gross misconduct would result in a final written warning and Mr A Nurmohamed was clear in evidence that he considered it to be gross misconduct. Had it been downgraded from that set out in the invitation letter, I would have expected that to be recorded as such, whereas it was in fact recorded as Mr Nurmohamed being “lenient” by offering the demotion. I conclude that in fact, although ordinarily the disciplinary policy allows for demotion in cases other than gross misconduct., by referring to unusual circumstances I consider that Mr Nurmohamed was indicating that he was departing from normal policy because of the unusual circumstances of the case.

49. More generally, in considering whether dismissal fell within the range of reasonable responses, I must not place myself into the employer's shoes and substitute my view. This is a question of what fell within the range of reasonable responses. I conclude that some employers would not have dismissed for the acts of the claimant given that she had delegated at least some of them to Ms Bennett. However, I cannot say that it was outside the range of reasonable responses, particularly given the vulnerability of the service users, the importance of proper care being given to them both in terms of day to day care such as fluids and showers and medication, and the importance of medication being checked regularly – both for the controlled drug count and more generally to ensure that it does not run out. Whilst some of these duties were for others to carry out, the evidence that the respondent had indicated that the claimant did not have proper oversight over what was going on, and did not take responsibility for her actions. As an alternative to dismissal the claimant was also offered the opportunity to take on a lesser role where she would not have overall responsibility for the matters which led to the disciplinary process. Dismissal fell within the range of reasonable responses.
50. I conclude that the respondent genuinely believed the employee to be guilty of (gross) misconduct, that it had reasonable grounds for that belief and that it had carried out as much investigation as was reasonable in the circumstances for the reasons set out above. The claimant's claim is dismissed.

**Employment Judge Edmonds**

**Date 15 March 2024**