



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr G Truswell

**Respondent:** TFS Stores Limited

**Heard at:** Nottingham **On:** 11 December 2024

**Before:** Employment Judge M Butler

**Non-legal member:** Ms J Dean

## Appearances

**Claimant:** In person

**Respondent:** Mr D Jones, Counsel

# REMEDY JUDGMENT

The Tribunal orders the Respondent to pay to the Claimant:

1. A basic award of £1,375.80
2. A compensatory award of £959.73
3. An award for the loss of statutory rights in the sum of £319.91 and
4. An uplift of 25% on the above sums for failure to comply with the ACAS Code of Conduct for disciplinary matters in the sum of £663.86.

The total award is £3,319.30.

# REASONS

## Background

1. This remedy hearing was listed following the liability hearing in March 2024 at which the Claimant's claim for unfair dismissal succeeded.
2. Prior to today's hearing the non-legal member who sat on the liability hearing, Ms Tidd, was taken very ill and notified the Tribunal to say she could not attend

today. Both parties were consulted and agreed they were happy to proceed today with just an Employment Judge and the other non-legal member.

3. At the commencement of the hearing, Mr Jones advised that the parties had agreed the figures recorded in the judgment above with the exception of the ACAS uplift so that was all the Tribunal had to decide.

**Conclusion**

4. Mr Jones pointed out that paragraph 12 of the liability judgment erroneously said that an investigatory meeting required notice under the ACAS code. He is quite right and the Tribunal readily acknowledged this error. Having said that, our decision on the extent of the uplift focused on paragraph 18 of the liability judgment.

5. We take very seriously, the failure of the Respondent to provide the Claimant with witness statements taken in response to allegations made against him. This put the Claimant at a significant disadvantage as he was unable to properly prepare for the disciplinary hearing. Taking the decision to dismiss him without disclosing the detail of the case against him is a fundamental breach of the ACAS code and inevitably leads to this dismissal being unfair.

6. Further, the liability judgment at paragraph 17 refers to the failure of the Respondent to take statements from those members of staff who did not share the views of the complainants. The ACAS code refers to the investigation being sufficiently detailed to include those matters which may support an employee accused of misconduct. That was not done as part of the investigation and we noted that Ms Bekirova actually met with Mr Brant to explain one incident but he decided to ignore what she said in dismissing the Claimant. The investigation was one-sided and taints the dismissal with unfairness.

7. Accordingly, we took the view that the breaches of the ACAS code were so serious that the maximum uplift of 25% was completely justified.

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Employment Judge M Butler

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Date 11 December 2024

JUDGMENT & REASONS SENT TO THE PARTIES ON

.....11 December 2024.....

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FOR THE TRIBUNAL OFFICE