



# EMPLOYMENT TRIBUNALS

**SITTING AT:** LONDON CENTRAL

**BEFORE:** EMPLOYMENT JUDGE F SPENCER sitting alone

**BETWEEN:** MS C REAFAT CLAIMANT

AND

WEST LONDON ACTION FOR CHILDREN RESPONDENT

**ON:** 25-28 FEBRUARY 2025

## **Appearances**

**For the Claimant:** In person  
**For the Respondent:** Ms S Crawshay-Williams, counsel

## **RESERVED JUDGMENT**

The Judgment of the Tribunal is that:

- (i) By consent the Respondent is ordered to pay the Claimant £1,993.90 in respect of her claim for unpaid wages.
- (ii) The Respondent failed to provide the Claimant with a statement of particulars of employment as required by section 1 of the Employment Rights Act 1996 and the above award is increased by two weeks gross pay (£270 x 2)
- (iii) The Claimant was not unfairly dismissed and her claim for unfair dismissal does not succeed.

## REASONS

### Introduction

1. This was a hearing to consider the Claimant's claims for unfair dismissal and unlawful deduction of wages. (The Claimant's claims for whistleblowing dismissal and detriment had been dismissed earlier in the proceedings for non-compliance with Unless Orders.)
2. During the hearing the parties agreed that, by consent, the Tribunal would make an order in respect of the Claimant's claim for wages, as set out above. (Subsequent to the hearing the Claimant wrote to the Tribunal to say that the amount should be £2,147, but the award set out above reflects what was agreed in Tribunal.)
3. The remaining claim was therefore one of unfair dismissal. The Claimant was dismissed on 26 January 2022. It is the Respondent's case that she was fairly dismissed for conduct and/or some other substantial reason, namely a breakdown in the relationship.
4. I had a very substantial number of documents, and I heard evidence from the Claimant. On behalf of the Respondent I heard evidence from:
  - a. Georgina Bell, the Lead Therapist
  - b. Ms G Alvi the Assistant Fundraiser and Finance Officer
  - c. Ms E Webber who was, at the time, Chair of the Trustees

I also accepted into evidence a signed witness statement from Ms H Boxer, formerly the Chief Executive of the Respondent, who had passed away in January 2025, although the witness statement had been prepared in October 2022, in advance of the earlier postponed hearing in November 2022. In any event much of her evidence was corroborated by contemporaneous documents in the bundle.

5. At the start of the hearing there was a discussion as to disclosure of documents. In the bundle there are a number of notes taken by Ms Bell and Ms Alvi as to their interactions/meetings with the Claimant over the period from 2020 until her dismissal. None of these were given to the Claimant during the disciplinary process and there had been late disclosure of some of these documents. The Claimant said that they had been wrongly dated and created after the event to bolster the Respondent's case. However, after some discussion I accepted the evidence of Ms Alvi, that the notes of meetings with the Claimant during 2020 (23, 24, 29, 41) had been typed up in early 2021 from contemporaneous handwritten notes, because the Respondent had begun to realise that there might be an issue, and that the typed notes which appear in the bundle from early 2021 onwards were taken contemporaneously. (The photos of the handwritten notes had been added

in preparation for the litigation.) Although the Claimant disputes the content of those notes in part, I found Ms Bell and Ms Alvi to be honest witnesses and I accept the content of those notes as being very largely correct.

Findings of fact

6. The Claimant was employed by the Respondent as a Childcare Assistant and Project Manager from 1 April 2017 – though she had been involved with the charity as an occasional worker for some time before then. There is no formal statement of particulars of employment, though a letter dated 20 May 2019 notes that her hours were a minimum of 18.5 hours per week. The Claimant worked variable hours and was hourly paid and submitted timesheets to the accountant each month.
7. The Respondent is a small charity which offers free confidential counselling and therapy to parenting groups and groups of children in schools, helping them face challenges (including domestic violence, divorce, school exclusions, bullying and other difficulties). At the time it employed 12 therapists, three administrative staff and two play assistants (including the Claimant). Some of these staff are part time. It also benefits from a significant number of volunteers. I understood that the Claimant's role was to organise and cover childcare while the parents attended therapy sessions as well as to undertake ad hoc administrative tasks. One of the Claimant's important tasks was to coordinate a "stay and play" session, called Jigsaw, which ran on Wednesdays during term time.
8. For many years there were no problems. The Claimant says that she worked closely with Ms Boxer and felt that they had a very good working relationship and got on very well. However, in March 2020, due to the Covid-19 pandemic, the office was closed. The service moved to online working, but it was not possible to run any childcare sessions online. The other childcare assistant was furloughed, but the Claimant chose not to and covered various ad hoc tasks. Documents in the bundle evidence that by May 2020 the Claimant was finding things difficult and had not joined in team meetings. On 29<sup>th</sup> May the Claimant wrote to Ms Boxer saying that, while she had tried to feel differently, she was not able to continue working with the Respondent. She hoped that, as the team were working remotely and did not need childcare, it would not cause any disruption. This was not taken as a resignation however and, following further discussions, the Claimant and the Respondent agreed that the Claimant would be put on furlough.
9. In the summer of 2020 Ms Boxer, who had been responsible for managing the Claimant, went into hospital. She asked Dr Bell to take over the line management of the Claimant. In October Dr Bell spoke with the Claimant whose furlough was due to end at the beginning of November. It was the Claimant's perception that the Respondent had not worked out a clear plan for her return and that her job description lacked clarity. In a meeting a few days later attended by the Claimant, Dr Bell and Ms Alvi the Claimant

voiced her unhappiness and said that she felt undervalued by the Respondent. She felt that the Respondent had no prepared plan for her return. Dr Bell then put together a task list for the Claimant ready for her return, which was discussed, amended, and agreed. I accept that Ms Bell was confused as to why the Claimant was unhappy and felt undervalued.

10. The Claimant's furlough was then extended for a further month to 2 December, and then extended again until the end of February 2021. There was a further zoom meeting on 3 February 2021. I accept the Respondent's note of that meeting, which evidences that the Claimant voiced a number of complaints about the way she had been treated and said that she intended to leave. The Claimant does not accept that she said she intended to leave, or the Respondent's note of the meeting, but the Claimant's own evidence was that had spoken about *"how lack of support had really badly impacted my mental health,.... I hoped being candid would prompt them to take it seriously and I thought I had a safe space to do so."*
11. In the end the Claimant's furlough was continued beyond February and there were further meetings on 14<sup>th</sup> and 28 April. It is clear from the Claimant's witness statement that she was very dissatisfied with the support that she had been receiving. On 14<sup>th</sup> April, when Ms Bell sought to understand exactly why Claimant felt that she was not being supported by the Respondent, the Claimant responded *"if you're so clueless it would be very upsetting for me to list all the things that you have done wrong. The only way I can account for the experience I had is that I don't meet the threshold/ I don't feel you care about me, I don't feel you value me, I don't trust WLAC"*. As a result further meeting was convened for two weeks later involving Ms Boxer. The notes evidence, and the Claimant accepts, that at that meeting the Claimant was unable to clarify what it was that she wanted the Respondent to do.
12. However, I do not accept that the Respondent had failed to support the Claimant. She was having a hard time during lockdown, but this was not through any fault of the Respondent who sought to understand her concerns. In particular I do not accept that Ms Bell yelled at the Claimant during the 14<sup>th</sup> April meeting as she alleges, or that on 28<sup>th</sup> April the Claimant was pressured to leave the organisation *"and humiliated and shamed for requesting support."* Ms Boxer did ask the Claimant to write to her to say whether she intended to stay at the Respondent, and to outline why she was dissatisfied, but I find that this was in response to the Claimant's comments which had been unclear. In any event the Claimant did not respond to the invitation to say why she was dissatisfied and just said that it was her intention to return to her job at the Respondent. Although the Claimant felt dissatisfied and unsupported, the reasons for that dissatisfaction remained unclear. The Claimant has disclosed an extract from her private journal which reads *"I know that you have acted negligently and shown a total lack of respect for me not only as an employee but as a human being."*

13. The tenor of the Respondent's correspondence to the Claimant at this stage evidences a genuine desire to understand the Claimant's concerns, but puzzlement as to the cause of her dissatisfaction.
14. In the end the Claimant remained on furlough until the government introduced the flexi furlough scheme in September 2021. In July 2021 Ms Boxer wrote to the Claimant asking if she was interested in some training opportunities. On 3 August 2021 Ms Boxer wrote to the Claimant outlining a proposal for flexi- furlough for September. The idea was that the Claimant would work for three hours on Wednesday morning from the beginning of September and do some additional administrative tasks on an ad hoc basis.
15. The Claimant returned on flexi furlough in September. The Respondent considered things had initially gone well, though in her witness statement the Claimant complains about a number of matters, including that the Respondent had been reluctant to provide first aid training or support on her return.
16. On 15<sup>th</sup> September the Claimant posted in the Respondent's business WhatsApp chat a request for her name to be removed from the team section of the website. She also emailed the administrator asking for her name to be removed as soon as possible. Her name was removed. The Respondent raised no concerns about this at the time.
17. The first Jigsaw session took place on 13 October and the Claimant was congratulated for her success in restarting the facility.
18. On 27<sup>th</sup> October the Claimant did not attend to do some administration work that she had agreed to do. In her witness statement the Claimant says that she had not been asked to help out with admin work until she got to the office, and that Ms Alvi should not have asked her to do these tasks as she was not her line manager, but it is clear from the bundle that these tasks had been discussed by email the previous day and that the Claimant had agreed to come into the office to help out.
19. In a meeting with Ms Alvi later that day the Claimant said that she felt that childcare was not a valued service by the team and that, unless the Respondent changed things, she did not feel she would be able to do the role, and she felt that she was "like a coat been thrown in a cloakroom". Later that day she sent a WhatsApp to the effect that she was not able to commit to the proposal to reintroduce childcare on Mondays, but the nature of her objection was not made clear. In evidence the Claimant said that Monday was not her usual working day but if this was her objection, it was not made clear to the Respondent at the time.
20. By November the Claimant remained unhappy and was concerned about the risk of exposure to Covid, and the inability to socially distance. At meetings on 1 and 4 November the Claimant again expressed a number of grievances about her role, saying that she felt undervalued. I accept that

the Respondent sought to understand what it was that was causing the Claimant concern, but that her issues or problems were never clearly articulated. On 2 November the Claimant emailed the Respondent to say she would not be able to come in that day, having said the previous day that she would be coming in to help with administrative tasks. No explanation was given.

21. On 16<sup>th</sup> November the Claimant said that she had come down with a cold and had a negative lateral flow test, but she was waiting for the results of a PCR test.
22. The same day a letter was sent to the Claimant outlining the way the Respondent envisaged her job going forward and asking for an acknowledgment, but there was none. On 17 November the Claimant said that she could not attend the meeting that day because she was not well.
23. On November 18, 2021, the Claimant emailed Ms Boxer to say that she had a positive Covid test. The Claimant was extremely upset by this.
24. The same day there was a staff social at a local restaurant, which was the first time that staff had been able to physically get together for a social. The Claimant was unwell and did not attend, but later that night, one of the team messaged "so great seeing you all" on the work social WhatsApp group. The Claimant responded by messaging "what a total fucking joke". Ms Boxer was shocked.
25. The next morning (Friday) Ms Boxer tried to ring the Claimant but there was no response. At 5pm she emailed the Claimant saying that she would like to talk to her about the WhatsApp message and asking what would be a good time to call (161). The Claimant did not respond. A further email was sent at 9 am on Monday (22<sup>nd</sup> November). In that email Ms Boxer said that she was deeply concerned that, despite having requested a phone call, the Claimant had not contacted Ms Boxer since she had posted the message on the WhatsApp chat. Ms Boxer said she wanted to hear from the Claimant direct as to the meaning behind message and to whom it was directed. The email noted that the Claimant had made no attempt to delete the message or to follow it up with any apology or explanation. She asked the Claimant to get in touch. There was no response. (In evidence to this tribunal the Claimant said that "there was no safe way to respond".)
26. A further email was sent on 25<sup>th</sup> November asking her again to get in touch. As there was no reply, a more formal letter was sent on 29 November 2021 saying that it was "crucial to talk", and that Ms Boxer needed to hear from the Claimant as to why she felt it necessary to send such a message on the WhatsApp channel. She said that until they had a chance to talk it through "it would not be appropriate for you to return to work either at Jigsaw or the office." (69) Effectively the Claimant was being suspended. There was no response to that letter, but on 3 December the Claimant sent a bald WhatsApp message to Ms Alvi, saying "*FYI I got Covid from work*".

27. On 9 December, nearly three weeks after the initial request, a formal letter was sent to the Claimant saying that, even if the Claimant had been unwell *"I feel you should have given me the courtesy of a reply. I cannot just ignore your lack of communication nor the unboundaried WhatsApp message that you have sent. As well as a failure to take up the opportunity to talk this through, I see this as a matter of failure to engage with the work of the Team."* She invited the Claimant to a meeting *"to explain your recent messages and discuss what your grievances are, on an informal basis"*. She said that, if the Claimant decided not to meet with her, she would need to move to a more formal resolution. The meeting was fixed for Monday 13<sup>th</sup> December at 1 PM.
28. The Claimant sent a one-line response saying that she was not well enough to meet with her on Monday, though provided no further details of her illness. Ms Boxer then offered 15<sup>th</sup> November at 3 pm . The Claimant responded that *"I will only be able to speak with you via zoom. I feel it is important have at least two members of the therapy team present in addition to you and [Ms Bell]"*. She also messaged Ms Bell saying that she would only feel comfortable having the discussion with her and Ms Alvi and again asking for two members of the therapy team to be present *"I am unfortunately not comfortable having Heather [Boxer] present at the meeting"* . As a result the meeting did not take place.
29. On 16<sup>th</sup> December Ms Boxer wrote to the Claimant saying that, as the Claimant had not taken up her offer to meet to explain, she was left with no option but to move to a formal process under the Disciplinary procedure. A copy of that procedure was attached.
30. In fact Ms Boxer did not move forward with the procedure until after Christmas. On 3 January Ms Boxer wrote again explaining the process (186) and stating that she and Ms Bell were investigating.
31. On 11 January 2022 Ms Boxer wrote to the Claimant inviting her to a meeting on 19<sup>th</sup> January to discuss
- a. inappropriate messages placed on the WLAC What App Channel and to another member of the team
  - b. failure to communicate with me as Chief Executive in response to the letters and messages that have been sent to you, and with other members of the team
  - c. non-performance of duties.
32. Enclosed with the letter was an appendix which detailed the specific matters under each head. (19/195). The Appendix goes considerably further than the WhatsApp of 18<sup>th</sup> November and the subsequent failure to respond.

33. In relation to a. (inappropriate messages) the Appendix details not just the WhatsApp message of 18<sup>th</sup> November but also her WhatsApp message to the group asking to be taken off the teams section of the website, her WhatsApp to Ms Burge, repeating that request, and her WhatsApp to Ms Alvi saying that she had got Covid from work.
34. As to b. (failure to communicate with me as Chief Executive), the Appendix details the various communications (set out above) to the Claimant which were not responded to.
35. As to c. (nonperformance of duties), the Appendix identified the Claimant's email of 29<sup>th</sup> May 2020 saying that she was not able to continue working with the Respondent (see para 8 above) and a few instances where the Claimant had said she would be coming in to do admin jobs but had not done so.
36. The letter did not suggest that a possible outcome of the hearing would be the Claimant's dismissal.
37. On 18<sup>th</sup> January the Claimant wrote to Ms Boxer asking if Ms Webber could oversee the process in order to have the situation "evaluated fairly". Ms Boxer responded that that would not be possible as she should be available to hear any appeal.
38. The disciplinary meeting took place via zoom on 19<sup>th</sup> January 2022. The disciplinary panel were Ms Boxer and Ms Bell and the Claimant was accompanied by a colleague. Ms Burge took notes.
39. At the hearing the Claimant queried why her request to be taken off the Respondent's website was deemed inappropriate. She said that she wanted her name removed for her personal privacy and did not want people to know she worked for WLAC.
40. As to the WhatsApp message sent on 18<sup>th</sup> November and her failure to respond the Claimant accepted that the WhatsApp was inappropriate but said it should be seen in context. She said that she had been subjected to poor working conditions, poor communication, lied to about safety measures in the workplace, had received no additional support, faced safety hazards and generally referred to the Respondent's hostile management style. She said that Ms Bell was aggressive in meetings held with her and that Ms Boxer "showed lack of understanding and empathy". In other words the Claimant went on the attack. The Claimant said she had not responded to Ms Boxer's various communications because she had not been given back her previous hours, because of her Covid infection and that *"she had disengaged with Heather because of her hostile management style."* She said no one from the organisation had checked on her well-being. She referred to Ms Boxer's letters as hostile and said that the decline in her well-being was directly related to the Respondent's treatment of her. Although the Claimant says that the notes are not correct and that she was remorseful in the hearing, I prefer the Respondent's

evidence, which is more consistent with the tenor of the documents that the Claimant sent for her appeal.

41. In relation to non performance of duties the Claimant said that Ms Boxer knew that her mother had had an operation and a serious illness, that the organisation had offered her no support, that homeworking wasn't for everyone, and she felt there was a negative bias against her. She had not been clearly told what her role in administration was, and that while she had attended the Jigsaw planning meeting she felt this was "exploitative".
42. Following that meeting Ms Boxer and Ms Bell decided that the Claimant should be dismissed. On 26 January 2022 the Claimant was sent a letter dismissing her with immediate effect. In the letter Ms Boxer states that they considered each of the WhatsApp messages identified in the Appendix and sent by the Claimant were inappropriate, that she had failed to respond to reasonable requests from the Chief Executive following the "key" WhatsApp message of 18<sup>th</sup> November and had failed to take up work in November 2021. It continues *"We do not feel that you have behaved appropriately and that we have therefore lost trust and confidence in you and your desire and ability to work in the interests of the charity. We feel that you are unable to take direction from either the Lead Therapist or from the Chief Executive and that you have taken active steps to destabilise WLAC, including gross insubordination. As a result we consider that the working relationship between us has inevitably broken down and that your position has become untenable."* She was given the right of appeal
43. The Claimant appealed on 31<sup>st</sup> January. In her appeal the Claimant said that :
  - a. at the disciplinary hearing she had not been allowed to ask questions or to have the misconduct claims explained or clarified, and that she did not fully understand the claims.
  - b. reading the letter of dismissal she was *"alarmed by the level of false statements made in the letter"* she wanted the opportunity to counter those,
  - c. that the dismissal letter did not reflect what she had said in the disciplinary hearing and had also *"chosen to omit vital facts and context."*
  - d. that as she had previously raised grievances against the Chief Executive and the Lead Therapist they were not able to give an impartial opinion and that there had been *"a pattern of hostility and detrimental treatment"* towards her from the Chief Executive which had been noted by co-workers,
44. On 4<sup>th</sup> February Ms Webber wrote to the Claimant asking her
  - a. To identify the false statements that were made in the letter of dismissal and the evidence that she was not allowed to provide
  - b. To say in what way the dismissal letter did not reflect statements she had made and admitted vital facts and context

- c. asking for details of the grievances that she said she had raised against the Chief Executive and the lead therapist
  - d. to provide evidence of the “pattern of hostility and detrimental treatment” which had been noted by co-workers.
- 45. The Claimant responded on 14 January. Unfortunately her letter did not answer the questions which Ms Webber had asked her. In respect of the 18 November WhatsApp message, the Claimant said that it was regrettable, and out of character. She referred to her positive coronavirus tests, said that her mother had just come out of hospital, and she was distraught. She said that she was *“disappointed that the importance of the circumstances as a significant factor have not been understood or considered in the evaluation made.”* She also referred to the fact that other legitimate issues about safety in the workplace had not been addressed. She complained that *“multiple requests to meet with the Chief Executive to gain clarity on the format of working and my role were refused.”* As to her non communication with Ms Boxer after her WhatsApp message she said that she had not been very well. She said, *“I’m disappointed that the organisation was not able to appropriately identify my vulnerability at this time and was not willing to try to communicate with me beyond the purely disciplinary approach taken.”* The Claimant did say that she remained committed to the Respondent although the tone of the email does not suggest anything but a continuing resentment towards them.
- 46. Ms Webber also emailed Ms Boxer with a copy of the Claimant’s letter asking for (i) her comments on that letter and (ii) a log of all communications that she had had with the Claimant during the relevant period.
- 47. Ms Boxer provided a log of her communications with the Claimant and the narrative to go with it as well as annotations on the Claimant’s letter of appeal. These documents were not provided to the Claimant before the appeal.
- 48. The appeal hearing took place over zoom before Ms Webber and another trustee Mr Habgood. The notes of that hearing appear in the bundle (231 B).
- 49. The Claimant was distressed during the hearing. She could not articulate what “false statements in the dismissal letter” she was referring to, or otherwise evidence the claims that she had made in her letter of appeal. Throughout the hearing the Claimant repeated her assertion she said the Respondent was negligent because Ms Boxer was *“hung up on making me know that I am not important”* and that the organisation had failed to identify that the Claimant was in crisis. She said that Ms Boxer *“wants to hurt me and she has been relentless. At no point has the organisation enquired about my welfare.”* None of the documents or notes that I have seen, or the evidence I have heard, would suggest that this perception that the Claimant had that she was not valued, was objectively reasonable.

50. The Claimant accepted that the WhatsApp message was inappropriate but said that it was a failure of the organisation not to have placed it in context and *“it was a failure of you as an operation not to anticipate the fallout of bringing staff unprepared into high risk work and not have someone who is a shark circling me that wants to take a big bite out of me. [Ms Boxer] doesn’t want to understand. She has failed to protect me with clients and security.”*
51. On 14<sup>th</sup> March the Respondent wrote to the Claimant to say that her appeal had been unsuccessful though there was no articulation of their reasons. In evidence Ms Webber explained that, even if the WhatsApp message had been out of character for the Claimant, her refusal to engage thereafter was a significant concern. They considered that these factors had led to a loss of trust and confidence resulting in the irretrievable breakdown of the working relationship between the Claimant and Ms Boxer.

#### The law

52. Section 94 of the ERA sets out the right not to be unfairly dismissed. It is for the Respondent to show that the reason for the Claimant’s dismissal is a potentially fair reason for dismissal within the terms of section 98(1). Section 98(1) provides that it is potentially fair to dismiss for “conduct” or for “some other substantial reason” (SOSR)..
53. A breakdown in working relations can amount to SOSR, as can loss of trust and confidence in an employee in appropriate circumstances. However it is important to identify whether the loss of trust and confidence arises from the conduct of the employee or not, and why an employer considers it impossible to continue to employ the employee. Where the loss of trust and confidence arises because of an employee’s conduct it can be difficult to distinguish between conduct and SOSR as the principal reason for the dismissal.
54. A breakdown of trust and confidence should not be used as a convenient label to stick on any situation in which the employer feels let down by an employee, if their conduct is not of itself a sufficient reason for dismissal.
55. In all cases once the employer has established a potentially fair reason for dismissal, the Tribunal will need to consider whether dismissal for that reason was fair or unfair
56. In cases of misconduct employers are not required to ascertain beyond reasonable doubt that the employee is guilty of the misconduct in question. However the employer must establish its belief in that misconduct on reasonable grounds and after reasonable investigation and conclude on the basis of that investigation that dismissal is justified (*British Home Stores v Burchell* [1980] ICR 303.)

57. It is settled law that in unfair dismissal claims, the function of a tribunal is to review the fairness of the employer's decision, not to substitute its own view for that of the employer. The issue is whether the decision to dismiss fell within the band of reasonable responses for an employer to take with regard to the misconduct or other substantial reason. However, it is not the case that nothing short of a perverse decision to dismiss can be unfair within the section, simply that the process of considering the reasonableness of the decision to dismiss must be considered by reference to the objective standards of the hypothetical reasonable employer and not by reference to the tribunal's own subjective views of what we would have done in the circumstances.
58. In assessing the reasonableness of the decision to dismiss it is important to look at whether there was a fair procedure. Did the Claimant have a proper chance to explain, apologize or deny? Where there is doubt as to what happened, was there a reasonable investigation? In assessing whether the Respondent adopted a reasonable procedure the range of reasonable responses test is appropriate. What is a fair procedure may depend on the circumstances. The ACAS Code of Practice on disciplinary and grievance procedures provides guidance which tribunals must take into account in deciding whether a conduct dismissal is fair or unfair. (*Lock v Cardiff Railway Co Ltd 1998 IRLR 358*) It sets out six steps that employers should normally follow when handling disciplinary matters. These are to
- a. Establish the facts of each case
  - b. Inform the employee of the problem
  - c. Hold a meeting with the employee to discuss the problem
  - d. Allow the employee to be accompanied
  - e. Decide on appropriate action
  - f. Provide the employee the opportunity to appeal

A failure to follow the code is relevant to the reasonableness of the decision to dismiss and will trigger an uplift in the compensation payable if the employee is successful (section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992).

### Conclusions

59. I find that the principal reason for the Claimant's dismissal was a breakdown in working relations. By the time the Claimant was dismissed it was evident that she had lost all faith in Ms Boxer and the management of the Respondent. This was, in my view, a perception that was objectively unreasonable. Correspondence in the bundle demonstrates that Ms Boxer and Ms Bell made repeated attempts to try to get to the bottom of what was bothering the Claimant and to reassure as to her value to the organisation. (In cross examination the Claimant accepted that the relationship with Ms Boxer had broken down, but said that this was not her fault and was because she had "made false allegations, changed my work

contract and consulted with lawyers” – though she also denied that she was estranged from the organisation.)

60. While the trigger for the dismissal was the Claimant's WhatsApp of 18<sup>th</sup> November and her failure to communicate with Ms Boxer, this had to be looked at in the context of the growing deterioration of the relationship.
61. There had been a history of dissatisfaction over the time that the Claimant had been away from the workplace on furlough, as set out above, and the correspondence in the bundle evidences that Ms Bell and Ms Boxer had, between them, done what they could to alleviate the Claimant's concerns, but that this had not helped. Nonetheless things might have settled down, but for the fact that the Claimant had sent the 18 November WhatsApp and then had failed to respond to Ms Boxer's many attempts to try and get an explanation out of her. Clearly at that stage the Claimant was not complying with her duty to comply with reasonable management instructions.
62. While it was the Claimant's conduct – specifically the WhatsApp message and a failure to respond - which led to the disciplinary process, having heard the evidence from Ms Bell and Ms Alvi, and read the notes of the disciplinary hearing I have no doubt that, had the Claimant showed contrition for her actions and a willingness to work constructively with the Respondent going forward, she would not have been dismissed. When the Claimant did eventually attend the disciplinary hearing, she gave no clear explanation as to why she had not responded to Ms Boxer when she had asked for an explanation for the November 18 WhatsApp, simply saying that she had been harassed by Ms Boxer while she was unwell and referred to a hostile management style.
63. I have no doubt that the Claimant was having a hard time. She was very upset by the fact that she had contracted Covid, but there was no evidence that, nor did she say, that she was too ill to respond to a simple request that she should contact Ms Boxer for an explanation.
64. Throughout the disciplinary process the Claimant showed continuing, but unjustified, distrust of the Respondent. She said in December, prior to the proposed fact-finding meeting, that she was not comfortable having Ms Boxer present at the meeting. In the context of a very small charity run by Ms Boxer, this of itself showed a likely breakdown in the relationship. (In evidence to the Tribunal the Claimant said that at the time she was having a “severe mental health crisis” but in the disciplinary hearing the Claimant had said that it was her treatment by Ms Bell that affected her mental well-being which is different.) Later, once matters progressed more formally, she said on 18<sup>th</sup> January that the process would not be fair unless it was overseen by Ms Webber. At the disciplinary hearing the Claimant continued to rehearse her grievances against the Respondent and used it as an opportunity to attack the Respondent's management of her, rather than res[ponding] to the allegations against her. She accused the Respondent of having lied to her about the safety measures being put in

place in the workplace (without specifying exactly what the lie was) and referred repeatedly to their hostile management style. The perception of the Claimant that the Respondent had a hostile management style was unreasonable and unjustified. The Claimant appeared to have no understanding that she was obliged, as an employee of the Respondent, to respond to reasonable requests from the Chief Executive.

65. The disciplinary process was not perfect. She was not told that a possible outcome might be dismissal. As the Claimant rightly pointed out it is hard to see why her email to Ms Boxer of 29<sup>th</sup> May 2020 (i.e. some 2 ½ years prior to the disciplinary hearing) saying that she was not able to continue working with the Respondent could amount to misconduct, nor why, if the Respondent took issue with her desire to have her name removed from the website, nothing was said to her at the time. However it was clear that the principal charge against the Claimant was the 18 November WhatsApp and her failure to respond, when asked, to Ms Boxer. I do not accept the Claimant's evidence that Ms Boxer did not allow the Claimant to respond to the allegations.
66. It would have been better for the Respondent to have sent the Claimant the notes of the disciplinary hearing for her to refer to before the appeal. It is apparent that the Claimant now disputes some of those notes. However, the notes are largely consistent with what she subsequently said in her letter of appeal and at the appeal hearing. It would also have been better for Ms Webber to have sent the Claimant the log of communications that Ms Boxer had prepared. However, I do not find that overall there was an unfair or unjust process. The process was reasonable in the context of a small charity with 17 or so employees. The Claimant was of course aware of the communications that she had had with the executives, but what was critical was that the relationship had broken down. At the appeal the Claimant had failed to provide any evidence or concrete details of the hostility that she referred to
67. This was a very small organisation. The Claimant had openly expressed her distrust of both Ms Boxer and Ms Bell, unreasonably accusing them of aggression, lack of understanding and empathy and of adopting a hostile management style. Ms Bell said, in answer to questions from the Employment Judge as to the reasons for the Claimant's dismissal, "*we are a small organisation, everyone is positive and helpful and works as a team, people help each other. Families like coming here we have very high retention of staff. The Claimant stepped outside that and was very difficult and angry; it was hard to see how we could build bridges.*" Both Ms Alvi and Ms Bell told the tribunal that they had spent two years trying to re-engage with the Claimant and to make her feel valued.
68. In evidence the Claimant said that she was not estranged or disaffected with the Respondent, and that she had only raised concerns, but the evidence does not support that contention. I accept that the Respondent reasonably believed that the relationship had broken down and in those

circumstances there was no option but to terminate the Claimant's contract of employment.

69. This was a relationship that could not reasonably continue, and the dismissal was not unfair.
70. As set out in the judgment above the Claimant was not provided with particulars of employment as required by section 1 of the Employment Rights Act 1996. In accordance with Section 38 of the Employment Act 2002, I increase the award made for wages by two weeks pay. Given the size of the Respondent it is not appropriate to award the maximum of four weeks pay.

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Employment Judge Spencer  
28<sup>th</sup> March 2025

JUDGMENT SENT TO THE PARTIES ON  
10 April 2025

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FOR THE TRIBUNAL OFFICE