



EMPLOYMENT TRIBUNALS

Claimant: Ms. S. Wiltshire
Respondent: Bath Spa University Students Union
Heard at: Bristol Employment Tribunal (by CVP remote hearing)
On: 6, 7 and 8 May 2025
Before: Employment Judge Hallen

Representation

Claimant: In person
Respondent: Mr. T. Wood- Counsel

RESERVED JUDGMENT

The Claimant's claim of unfair dismissal is unfounded and is dismissed.

REASONS

Background and Issues

1. The Claimant was employed as a Senior Finance Co-ordinator by the Respondent and worked for it between 24 April 2017 and 29 February 2024, at which time she was dismissed by reason of gross misconduct. The effective date of dismissal was 29 February 2024.
2. In her Claim Form dated 19 June 2024, she said that she was unfairly dismissed by the Respondent. The Respondent in its Response Form dated 23 September 2024 disputed that the Claimant was unfairly dismissed. At the hearing, the Respondent cited that the dismissal was by reason of gross misconduct and that it was a fair dismissal.
3. The issues for the Tribunal in respect of the claim were firstly to determine what the reason for dismissal was and whether it was by reason of conduct as asserted by the Respondent. Thereafter, the Tribunal had to ascertain whether the Respondent acted reasonably in all the circumstances in dismissing the Claimant and in particular: -

- (i) Did the Respondent believe that the Claimant had committed the acts of conduct relied on?
- (ii) Had the Respondent reasonable grounds for that belief?
- (iii) Had the Respondent conducted such investigation as was reasonable in all the circumstances of the case?
- (iv) Was dismissal within the range of reasonable responses open to a reasonable employer?

4. I had an agreed bundle of documents in front of me made up of 356 pages. The Claimant appeared in person and gave oral evidence relying on her witness statement dated 30 April 2025. The Respondent called Ms Diane Starling, Head of Commercial Services, Ms Gail Boulton, Head of Finance, (investigation officer), Ms Sarah Dawes, Chief Executive Officer, (dismissal panel chairperson) and Ms Lauren Martinez, Human Resources Consultant, (dismissal panel member and appeal panel adviser) to give oral evidence at the hearing before me. All these witnesses prepared written witness statements and were subject to cross examination. At the end of the hearing, I reserved my judgment and confirmed to the parties that I had to give thought to my decision. I confirmed that the judgment would be sent to the parties in this format.

Facts

5. At the outset of this facts part of my judgement, I confirm that I preferred the evidence given to me by the Respondent's witnesses. I found that their evidence correlated to the contemporaneous documents provided to me and was consistent with it. On the other hand, I found the evidence of the Claimant to be inconsistent with that documentation. I will refer to this in this section of the judgment where relevant.

6. The Claimant managed most of the day to day finance tasks of the Respondent including but not limited to: processing supplier invoices including posting to the finance computer package Quickbooks, processing all income including, bar, café and shop income, raising sales invoices, posting shop stock invoices onto the Fidelity Computer system, arranging payments of Supplier invoices for authorization by two bank signatories, posting supplier payments to Quickbooks, processing Clubs and Society payments, processing the Company credit card receipts and arranging payment of employee expenses.

7. The Respondent's IT support and systems are provided by Bath Spa University. On 31 July 2023, the University moved from Google to Microsoft 365 software in respect of the Respondent's finance function. This was a large project, and the Claimant along with all her colleagues in the Respondent's finance department was required to change a number of finance processes previously used in Google to Microsoft 365. The Claimant found the transition from Google to Microsoft 365 very difficult. To assist her with the transition, the IT department introduced some bespoke links to help her. Gail Boulton (Head of Finance/ Claimant's Line Manager) also helped the Claimant with the transition and took some of her tasks (such as raising payments) from her to assist her with her duties and to make the transition process easier and less stressful for her. Despite this assistance, the Claimant continued to struggle with the change that was required in respect of the transition from Google to Microsoft 365 software.

8. On 15 November 2023, Ms Boulton raised concerns with the Claimant regarding the Claimant's performance and her wellbeing. The Claimant had been refusing to undertake tasks normally expected of her and there were incidents of rudeness on her part. The Claimant blamed stress related stomach issues for her behaviour and it was suggested that the Claimant take some time off. The Claimant took some time off and returned to work on 15 November 2023. However, the Claimant performance did not improve, with the Claimant still refusing to undertake some of the tasks allocated to her.

9. On 12 December 2023 a well-being meeting was held with the Claimant, Gail Boulton and Lauren Martinez (former Head of People, Culture and Governance, and retained Human Resources Consultant from 26 January 2024) to discuss the Claimant's performance and attitude. During the meeting videos and briefings released to the Respondent's staff prior to the switch in IT were discussed, the Claimant advised she was aware of them but had not watched or read any of them. The relationship between the Claimant and Gail Boulton was discussed with Lauren Martinez suggesting that the relationship needed to improve and they needed to have more open and frequent conversations to avoid further frustrations or issues developing. The relationship between Gail Boulton and the Claimant did not improve, with the Claimant still refusing to undertake tasks that were part of her job duties.

10. In or around December 2023, Gail Boulton commenced a review due to concerns that the service provided by the finance team was below the standard expected and needed to be improved. Ms Boulton determined that there was a requirement for a better finance system, to make the process more efficient and to look at where there were pinch points in the process. The Claimant had also stated she was working longer hours despite Gail Boulton taking on some of her tasks, and she felt additional capacity was needed in the team. Gail Boulton was concerned about the number of hours the Claimant was working and wanted to review the situation to build up a business case to support a request for further resources to support the team. As part of this review, Gail Boulton carried out investigations into the systems used, tasks undertaken and time spent on tasks across a number of platforms usually used in the Finance team, including Quickbooks (the accountancy system) and SUMS (the web / CRM system where membership records are held).

11. As part of her review Gail Boulton asked the Claimant to record the tasks she was undertaking and how long these took to complete in part to support a business case to recruit further staff support as indicated by the Claimant was needed. After a few days the Claimant refused to complete the form. Gail Boulton also asked IT for Office 365 logs, so she could undertake analysis of time spent on various tasks. During these investigations Gail Boulton became concerned that the IT and systems logs did not correlate with the Claimant's manual flexi -timesheets, and in the 3-month period she examined, most major discrepancies appeared to have happened when the Claimant had been working from home. In the period 23 October to 12 January 2024, an 11-week period excluding Christmas week the following discrepancies were found: a. 10 occasions of the Claimant's start time being recorded on her manual flexi sheet earlier than the IT logs indicated she logged on; b. 6 occasions of the Claimant's finish time being recorded on her manual flexi sheet later than the IT logs indicated she logged off; c. 4 occasions where the Claimant indicated that she worked remotely outside of normal working hours. There was no evidence of this from IT logs. d. In total the IT logs indicated a shortfall of 45 hours compared to those stated on the Claimant's flexi sheet. e. The majority of the

discrepancies in the Claimant's hours worked, were whilst she worked remotely from home. f. On 20 December 2023 the Claimant logged 5 hours on her flexi sheet, but the IT logs showed she was only logged on for 11 minutes.

12. After finding these discrepancies, Gail Boulton took advice on what to do regarding them. She was advised by Lauren Martinez to hold an investigatory meeting with the Claimant pursuant to the Respondent's disciplinary procedure to hear the Claimant's response to them. At the hearing before me, the Claimant asserted that Gail Boulton should not have been the person who conducted the investigation meeting as she had some level of animosity towards her given their previous difficult relationship. I did not find this to be the case. Gail Boulton had tried to assist the Claimant during the transition from Google to Microsoft 365, had taken some of her tasks from her during the transition and appeared to be helpful to her whilst the transition was occurring, helping to arrange for some bespoke changes to be made to assist the Claimant during this period. I did not find that Gail Boulton had animus against the Claimant and as her line manager, I find that she was the correct person to undertake the investigation.

13. On 22 January 2024, an investigation meeting was held with the Claimant, Gail Boulton and Diane Starling (Head of Commercial Services). During the meeting the Claimant was asked to provide an explanation into the discrepancies that had been discovered that in particular arose on her time sheets when she worked from home typically on a Thursday and a Friday. Her time sheets on these dates showed an earlier start time compared to the start times shown on the computer log in logs. The Claimant was not able to provide an explanation but mentioned completing some work from home on her personal laptop. The meeting was adjourned for 24 hours to enable the Claimant to look at both her personal and work laptop and files to assist her in providing an explanation. At the hearing before me, the Claimant asserted that she did not have enough time to examine the laptop and her files, but I did not find this to be the case. She had enough time to do so before the meeting to be reconvened the next day.

14. The investigation meeting reconvened on the morning of 23 January 2024 with the Claimant being accompanied by Colin Clarke (Sports and Activities Manager), Gail Boulton and Diane Starling (Head of Commercial Services) again being present. The Claimant was again unable to provide a satisfactory explanation for the discrepancies but left her laptop with Gail Boulton to enable her to look into the discrepancies further. The Claimant was allowed to go home for the rest of the day. Following examination of the Claimant's laptop, no evidence being found to support the hours logged on the Claimant's flexi sheet and due to the Claimant providing no satisfactory explanation for the discrepancies, the Claimant was suspended on full pay. The suspension letter was sent to the Claimant by email on 23 January 2024 confirming that following the investigatory meetings on 22 and 23 January 2024 the decision had been made to suspend the Claimant from work pending further investigation. Later that day the Claimant sent an email to Gail Boulton confirming she had been signed off work sick by her GP and enclosing a sick note which cited the Claimant's sickness being stress at work.

15. Following completion of the investigation and the finalisation of Gail Boulton's full investigation report the Respondent decided that there was a disciplinary case to answer and given the serious nature of the matter and the position of trust that the Claimant held, this needed to be progressed to a disciplinary hearing in line with the Respondent's disciplinary policy. On 24 January 2024 the Respondent sent a letter to the Claimant inviting her to attend a disciplinary hearing on 1 February 2024, to consider the allegation

that the Claimant falsified flexi time records. The letter identified a potential outcome of dismissal, confirmed who would be in attendance at the meeting, gave the Claimant the opportunity to be accompanied and referred the Claimant to the Respondent's Disciplinary Policy. The letter also expressed regret at the impact the investigation was having on the Claimant's health and expressed that the Respondent did not want to exacerbate the Claimant's condition but given the severity of the allegations and the stress this was causing the Claimant, the Respondent felt it would be in the best interest of both parties to conclude the matter promptly to avoid further stress to the Claimant. The letter provided the Claimant with the opportunity to explore other meeting options with the Respondent should she feel too unwell to attend.

16. On 26 January 2024 the Claimant sent an email the Respondent stating she was too unwell to attend a Disciplinary Hearing. On 29 January 2024 Lauren Martinez, emailed the Claimant to invite her to attend a Welfare Review meeting to gain a better understanding of her health-related issues, understand the nature and cause, and if/how her condition related to the outstanding Disciplinary proceedings.

17. On 1 February 2024 the Claimant, accompanied by her friend, Elizabeth Creevy, attended a Welfare Review meeting with Lauren Martinez, and Diane Starling. During the meeting the Claimant's current health situation was considered and the impact of the proceedings being paused on the Claimant's health. Lauren Martinez discussed referring the Claimant to Occupational Health and gave various options to assist the Claimant in attending the Disciplinary Hearing such as submitting a written statement instead of attending or attending online. The Claimant agreed to provide a statement within a week and requested that Gail Boulton did not have any contact with the Claimant during the disciplinary process. The Claimant also requested access to her laptop in preparation for the Disciplinary Hearing.

18. During the Welfare Review meeting the Claimant raised issues regarding her line manager Gail Boulton. This was the first time the Claimant had raised any concerns regarding Gail Boulton. Lauren Martinez advised the Claimant that she should not leave the meeting feeling like she could not use the Grievance policy to raise any concerns she had. The Claimant did not raise a grievance regarding the concerns she raised despite being guided by Lauren Martinez. Prior to the meeting concluding it was agreed that the Disciplinary Hearing would be rescheduled for 13 February 2024, with the Claimant to notify Sarah Dawes on 12 February 2024 should she not feel well enough to attend. In addition, adjustments were discussed with the Claimant that would facilitate her attendance at the disciplinary meeting which she agreed needed to be concluded without delay.

19. At the hearing before me, the Claimant asserted that the Respondent should not have proceeded with the disciplinary process against her whilst she was signed off work on sick leave. However, I did not accept this assertion. It was clear to me after reviewing the contemporaneous documentation that the Claimant wished to have the process completed without delay even though she was signed off work on sick leave. Furthermore, if the Claimant did wish the disciplinary process to be postponed until a time she was signed fit to work by her GP, I would have expected her to have explicitly requested this to be done. She was unable to point me to any contemporaneous documents where she requested for this to be done. To the contrary, I find that at the time, she wished for the matter to be concluded quickly even though she was signed off work on sick leave.

20. On 5 February 2024 a letter was sent to the Claimant inviting her to the rescheduled disciplinary hearing on 13 February 2024, confirming the following adjustments which would be put in place: a. an extended period of time for the Claimant to review the evidence put forward from the investigation (an additional week); b. The Claimant to provide a written statement to document her account of events to be submitted by midday 8 February 2024; c. The purpose of the statement was to form the basis of the Claimant's defence and to be used in the Claimant's absence should she chose not to attend the meeting in person; d. The meeting was to be held in a different location to the Students' Union; e. The Claimant would not physically be in the same room as Gail Boulton at any time. The letter reminded the Claimant that a potential outcome of the hearing was dismissal.

21. The Claimant was given access to her laptop on 6 February 2023 with Diane Starling present to assist her. Whilst facilitating the Claimant's access to her laptop Diane Starling witnessed the Claimant emailing herself a large number of documents held locally on her laptop. On 8 February 2024 the Claimant submitted a statement in advance of the Disciplinary Hearing. Within the statement the Claimant alleged she had experienced problems with IT since 1 August 2023, provided examples of other systems she used and additional work she may have been doing. The Claimant stated that she had been given insufficient time to access her laptop and alleged discrepancies in the evidence provided by Gail Boulton.

22. On 13 February 2024 the Disciplinary Hearing took place, on the panel were Sarah Dawes (CEO), Caroline Dangerfield (Head of Membership Engagement / Deputy CEO) and Lauren Martinez. The Claimant was accompanied by Colin Clarke (Sports and Activities Manager). Prior to the meeting the Claimant was provided with a copy of the agenda which explained the process including holding the meeting across two rooms, to facilitate the Claimant's request for no contact with Gail Boulton.

23. During the Disciplinary Hearing: a. The Claimant confirmed that she used two locations/Wi-Fi networks outside of the office on the IT log and these were her home WIFI and that her partners Wi-Fi. b. It was clarified that IT had confirmed that the IT logs provided during the investigation showed when a PC / laptop was switched on it would automatically connect to the Respondent anti-virus security system (MS defender), or when the connection was refreshed. IT confirmed that the logs did not show when someone logs off, but they showed when connections were refreshed and connections refreshed frequently. The anti-virus security automatically sought a Wi-Fi connection to continually refresh, so even when Wi-Fi was lost or disabled it would continually search when the laptop was in use. c. The Claimant confirmed when working from home, she only worked on the laptop provided to her by the Respondent and that all tasks she could perform out of the office required her to use her laptop. d. The Claimant confirmed when working from home she did not work offline, but did use a documents folder on her desktop. e. The Claimant confirmed she did not disable the Wi-Fi on the laptop, so Wi-Fi access was always automatically enabled when the laptop was on. f. The Claimant confirmed the process followed to issue Purchase Orders (PO) and confirmed it would usually take less than 5 minutes to create a PO. However, a PO that required further investigation could take a maximum of 10 minutes. g. The Claimant stated other work she undertook at home included checking SUMS income using the spreadsheets downloaded from SUMS. However, following further investigation following the disciplinary hearing, Ms Dawes was able to conclude that the activity records created by SUMS did not record the Claimant accessing the SUMS system outside of the hours detailed in the IT log. h. The

Claimant also described uploading information to Quickbooks (QB). Ms Dawes was able to conclude following further investigation after the disciplinary hearing that the QB records did not show her logging into the QB system earlier than the IT log recorded her logging in. i. Ms Dawes was able to conclude following further investigation after the disciplinary hearing that that no emails, date stamps in the version history of any documents, systems records recorded the Claimant starting work earlier than the IT logs showed. j. The Claimant confirmed that she could not find any explanation or evidence to support the hours claimed on her flexi sheet. k. The Claimant alleged her timesheets had been altered. Ms Dawes was able to conclude following further investigation after the disciplinary hearing that the version history showed the Claimant was the last person to access and amend her timesheets. l. The investigation report identified 31 PO's, following points raised by the Claimant the Respondent found the spreadsheet listing POs had hidden rows, and there were 85 PO's the Claimant had created. However, Ms Dawes was able to conclude following further investigation after the disciplinary hearing that these only accounted for 7-14 hours of work, if each took 5-10 minutes to prepare.

24. Following the disciplinary hearing and points raised by the Claimant the following further investigations were carried out by the Sarah Dawes : a. Enquiries were made to the University's IT department (who provide IT services to the Respondent) to see if they could access the local drives on the Claimant's work laptop to see whether there were any remaining files that could support the Claimants case. The University Head of Legal Services advised that this request would not be covered under the existing Data Sharing Agreement that exists between the Respondent and the University. b. The date stamp of every PO created by the Claimant between October-January was reviewed. No time stamps supported the Claimant's claim to have created these during the hours in question specifically when she was working from home on the days in question. The further investigations carried out by the Respondent did not conclude until 29 February.

25. At the hearing before me, the Claimant asserted that the Respondent had made a procedural error in failing to obtain all possible records from the University's IT department to see if they could access the local drives on the Claimant's laptop to see if there were any remaining files that could support her case. I did not accept this submission. It was clear to me that the Claimant had been given ample opportunity by the Respondent to produce any evidence of what she had been doing to support her early entries on the days she was working from home on her worksheets. Despite these opportunities, she was unable to produce any evidence (other than related to PO's) to support her claim to be working for the Respondent at such times.

26. The Disciplinary panel reviewed all of the evidence and established the following facts: a. The Claimant confirmed that to the best of her knowledge, the hours declared on her flexi time sheet 26 October 2023 to 12 January 2024 were true and accurate. b. The Claimant confirmed that she had sole responsibility for recording her work hours on her flexi sheet. c. The IT log report recording the dates and times that the Claimant had logged on to her laptop. d. The IT log showed a discrepancy of at least 53 hours, where the laptop had been switched off and inactive, compared to the hours declared in the Claimant's flexi time sheet. Of these 53 hours, Ms Dawes confirmed to me in evidence that 34 of these hours that most concerned the Respondent was in relation to discrepancies between the Claimant's time sheet entries when she was working from home and the log in times shown on the IT logs of when she actually started work. Most of these discrepancies were in the mornings and showed her logging in on her time sheets earlier than the IT logs showed her logging in. e. The Claimant confirmed almost all the

discrepancies in her hours occurred on days when she was working from home. f. The Claimant confirmed that she did not disable the Wi-Fi connection from her laptop when working from home. g. Despite being given access to her laptop, and IT, the Claimant was unable to provide evidence of any emails, document version history date stamps, or Teams messages that showed she was working outside of the hours on the IT log. h. Despite the Respondent carrying out thorough investigations of the Claimant's laptop, emails, document version history date stamps and other drives, the Respondent was unable to locate any evidence of work carried out by the Claimant outside of the hours stated on the IT log. i. The Claimant was unable to provide any explanation as to why herself and the Respondent were unable to locate any evidence to support her claims that she was working during the hours on her flexi time sheet. j. Whilst the Claimant indicated that there would be files in local audit logs, which the Respondent would have been unable to access, the IT log showed when she switched her laptop on, and the Respondent checked the version history of every document and platform the Claimant raised as part of the process.

27. Based upon the above findings, the panel concluded that on the evidence available and on the balance of probabilities the Claimant had falsified her timesheets, and she was summarily dismissed on 29 February 2024 by reason of gross misconduct. A letter was sent to the Claimant the same day confirming the outcome of the disciplinary hearing.

28. On 13 March 2024 the Claimant submitted an appeal against her dismissal. On the following grounds: a. Procedural error - relating to unfair timing of disciplinary action, regarding the disciplinary hearing being heard whilst the Claimant was signed off sick. The conduct of disciplinary hearing and the conduct of the Claimant's line manager in the disciplinary process b. New evidence - minutes from an investigatory meeting 12 December 2023. c. Severity of outcome- Incomplete and misleading evidence.

29. An appeal hearing was arranged for 4 April 2024. This was heard by a panel of four trustees namely Christopher Ellicott, Joshua Mannino, Neetu Karwal and Jasmine Raymond Barker in line with the Respondent's policy. Prior to the hearing the Claimant requested that Sarah Dawes, chair of the panel, was not in the same room as her and so the hearing was again held over two rooms. Sarah Dawes was not a member of the appeal panel but appeared before the panel to answer questions in her role as chair of the original Disciplinary panel. The Claimant's appeal was not upheld on all three grounds, and an appeal outcome letter was sent to the Claimant on 10 April 2024 summarising the grounds for her appeal and conclusions of the panel.

Law

30. Section 98(1) ERA provides that it is for the employer to show the reason or principal reason for dismissal of the employee and 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. If the Respondent fails to do so the dismissal will be unfair.

31. If the Tribunal decides that the reason for dismissal of the employee is a reason falling within Section 98(1) or (2) ERA it will consider whether the dismissal was fair or unfair within the meaning of Section 98(4) ERA. The burden of proof in considering Section 98(4) is neutral.

32. Section 98(4) ERA provides:-

“the determination of the question whether the dismissal is fair or unfair (having regards 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.”

33. In the case of **Iceland Frozen Foods Ltd v Jones [1982] IRLR 439 EAT**, guidance was given that the function of the Employment Tribunal was to decide whether in the particular circumstances the decision to dismiss the employee fell within the band of reasonable responses which a reasonable employer might have adopted. If the dismissal falls within the band, the dismissal is fair. If the dismissal falls outside the band, it is unfair.

34. In the case of **Sainsburys Supermarket Ltd v Hitt [2003] IRLR 23CA**, guidance was given that the band of reasonable responses applies to both the procedures adopted by the employer and the sanction, or penalty of the dismissal.

35. The Tribunal should not substitute its own factual findings about events giving rise to the dismissal for those of the dismissing officer (**London Ambulance NHS Trust v Small [2009] IRLR 563**).

36. In the case of **British Home Stores v Burchell [1978] IRLR 379 EAT**, guidance was given that, in a case where an employee is dismissed because the employer suspects or believed that he has committed an act of misconduct, in determining whether the dismissal was unfair, an Employment Tribunal has to decide whether the employer who discharged the employee on the grounds of misconduct in question and obtained a reasonable suspicion amounting to a belief in the guilt of the employee of that misconduct at the time. This involved three elements. First, there must be established by the employer the fact of that belief, that the employer did believe it. Second, it must be shown that the employer had in its mind reasonable grounds upon which to sustain that belief. Third, the employer at the stage on which he formed that belief on those ground, must have carried out as much investigation into the matter as was reasonable in all of the circumstances of the case.

The Tribunal’s Findings

37. I find that the Claimant’s claim for unfair dismissal is unfounded and should be dismissed. In coming to my decision, I have to consider the test as set out section 98 of the Employment Rights Act 1996. I have to consider firstly whether the Respondent dismissed the Claimant for a potentially fair reason. If so, I have to consider, whether the Claimant was dismissed fairly in consequence of that dismissal depending upon the Respondent’s size and administrative resources. In other words, I have to find whether the Claimant’s dismissal was within a band of reasonable responses open to a reasonable employer and was fair in all the circumstances.

38. The two-stage test set out in section 98 has been clarified by the guidance in **Burchell** and I have ask more specific questions to ascertain the fairness of the dismissal as follows:(a) Did the Respondent believe that the Claimant was guilty of misconduct? (b) Did the Respondent have in mind reasonable grounds upon which to sustain that belief? (c) Did the Respondent carry out as much investigation as was reasonable in the circumstances?

39. In respect of the first question namely whether the Respondent had a fair reason for dismissal, I find that the genuine reason for dismissal was the Claimant's conduct. I find that the Respondent believed that the Claimant to be guilty of falsification of timesheets. During the hearing, the Claimant asserted that Gail Boulton had animosity towards her due to their previous dealings and had manufactured the conduct allegations in respect of the falsification of time sheets to find a good reason to dismiss her. I did not find any merit to this submission. Firstly, as I have found above, Gail Boulton has previously supported the Claimant during the transition process from Google to Microsoft 365 and had taken on some of her duties when she found that the Claimant could not cope with the transition. Secondly, whilst Gail Boulton had undertaken the initial investigation, Sarah Dawes also conducted her own additional investigation into the alleged misconduct after the disciplinary hearing. The Claimant did not allege that Ms Dawes had any animosity towards her. In cross examination, the Claimant accepted that falsification of timesheets would amount to serious misconduct if the Respondent concluded that the Claimant was guilty of falsifying her timesheets. The Respondent's disciplinary procedure, among other things, made clear that '*Theft, fraud or deliberate falsification of records*' if proven amounted to gross misconduct. Therefore, I find that the reason for dismissal was conduct in this case.

40. Moving on to the question of fairness and whether the Respondent had reasonable grounds for believing that the Claimant was guilty of misconduct having carried out as much investigation as was reasonable in the circumstances. I find that in this case, the Respondent undertook a reasonable investigation into the conduct in question and considered the matter at a fairly constituted investigation, disciplinary and appeal hearing.

41. I conclude that the Respondent's determination that the Claimant was guilty of very serious misconduct was reasonable. I find that the Respondent had: (a) Held two investigatory meetings, a disciplinary hearing, and an appeal hearing; (b) Given the Claimant access to her work laptop to enable her to find evidence of work done in the periods of discrepancy; and (c) Interrogated further documents and data some of which in relation to purchase orders was provided by the Claimant.

42. I find that the evidence from the Respondent's investigation pointed towards falsifying timesheets namely (a) the Claimant confirmed that all the work she did involved her logging on via her work laptop into the system and she turned on her laptop at the point at which she started work; (b) The IT logs showed the times that the Claimant's laptop "pinged" the Respondent's network and it could reasonably be assumed that the first "ping" was on or around the time that the laptop was turned on/first connected to the network; (c) the Claimant did not disable the Wi-Fi connection to the Respondent's network when working at home as she did not know how to do so; (d) It was reasonable to regard the IT logs as accurate because: (i) the Claimant acknowledged that it was true that the dates and times of inaccuracy fell on her work-from-home days; (ii) Bar two dates, the Claimant did not credibly challenge the accuracy of the logs generally; (iii) In relation

to that the first of those dates (26 October 2023), an explanation was found by the Respondent (that IT were carrying out updates to the Office 365 package, and two other computers connected to the network at the same time; In relation to the second date (2 January 2024) the Respondent noted that the Claimant was working in the office and disregarded this log in entry; (e) the Claimant confirmed that her timesheets were accurate; (f) The IT logs and timesheets matched “almost perfectly” when Claimant worked in the office but did not match when she worked at home especially in the mornings, reasonably meaning: (i) It was unlikely there was an issue with the reliability of the IT logs: there would be no reason they would be inaccurate at times the Claimant worked at home; and (ii) It was more likely that the Claimant was not working at all times when at home especially in the morning when she said she was working; (g) the Claimant’s explanations were insufficient: (i) the Claimant said she emailed documents to herself. For example, she gave 26 November 2023 as an example. However, upon further investigation Ms Dawes found that there was no email sent to the Claimant by herself that day; (ii) the Claimant said she could have done work on her personal laptop but when she looked, she could find no evidence of work being done on that computer; (iii) the Claimant said one explanation could be that she created multiple purchase orders offline but uploaded them in bulk during the time recorded by IT logs as working. However: (aa) Ms Dawes upon further investigation found that the process of creating pdf purchase orders involved using a spreadsheet pro forma that was within the system (and therefore required logging in); (ab) The number of purchase orders did not account for all the discrepancy hours i.e. it did not add up to the c.50 hours in the timesheets ostensibly not worked. Ms Dawes found that the Claimant said that it took five minutes per purchase order, 10 minutes for the most difficult and there were only 38 purchase orders worked on in days in question; (iv) In relation to 20 December 2023, the Claimant said she did training but the training record showed that she did not; (v) the Claimant could provide no other explanation for the discrepancies, and indeed acknowledged during the disciplinary hearing that, on the evidence before the disciplinary panel, “*you would conclude that they were not logged on*”.

43. I find that the Respondent adopted a reasonable procedure in this case for the following reasons: (1) the Claimant was provided with all relevant evidence; (2) The period between invite to disciplinary hearing and the hearing itself was reasonable. In fact, during the investigation process, the Claimant had access to her laptop for 23 hours but she found no evidence of work being done in the periods of discrepancy; (3) the Respondent made adjustments to the hearing to accommodate the Claimant’s illness (it was reasonable to proceed in light of the Claimant stating that she wanted to address the issues even though she was signed off work due to stress and significantly did not ask for a postponement taking an active role in the disciplinary process; (4) In any event, by the conclusion of the appeal, any procedural issue was of no effect. I find that the Claimant had the time to prepare her case, and the opportunity to present it, and have it properly considered.

44. After weighing up the evidence, I find that the dismissing officer imposed a penalty that was within the band of reasonable penalties open to her. I am conscious that my job is not to step into the shoes of the employer or substitute my own opinion. Rather it is for me to determine whether based upon the evidence before this employer in respect of this investigation, the employer imposed a penalty that was open to it after considering all of the relevant evidence taking into account the seriousness of the Claimant’s conduct. In my view, the penalty imposed in this case, which was summary dismissal for gross misconduct fell within that reasonable range. It maybe that other employers may have

imposed a final written warning in this case but nonetheless, I find that dismissal for gross misconduct in this case was within the band of reasonable penalties. It is clear to me that the decision to dismiss was reasonable for the following reasons: (1) the Claimant was guilty of falsifying work time for which she was paid; (2) Falsification is dishonest in nature and strikes at the heart of the relationship of trust and confidence; (3) The offence is considered gross misconduct within the Respondent's disciplinary procedure; (4) and the Claimant herself acknowledged during the disciplinary hearing that, on the evidence before the disciplinary panel, "*you would conclude that they were not logged on.*" By so confirming, she acknowledged that the Respondent's conclusion on the evidence before it was reasonable.

45. On the basis of my above findings, I conclude that the Claimant's claim for unfair dismissal is unfounded and is dismissed.

Employment Judge Hallen
Date: 13 May 2025

JUDGMENT & REASONS SENT TO THE PARTIES ON
27 May 2025

Jade Lobb
FOR THE TRIBUNAL OFFICE