



EMPLOYMENT TRIBUNALS

Claimant: Mr L Leather

Respondent: Kitchen Trade Suppliers Limited

Heard at Leeds by CVP

ON: 19 August 2025

BEFORE: Employment Judge Shulman

REPRESENTATION:

Claimant: In person

Respondent: Ms M Taylor-Butt, Finance Manager

JUDGMENT

1. The proper title of the respondent is Kitchen Trade Suppliers Limited.
2. The claimant's claim for unfair dismissal is hereby dismissed.

REASONS

1. Claim

- 1.1. Unfair dismissal.

2. Issues

The issues in this case relate to what was the reason for dismissal and whether the dismissal was fair or unfair having regard to the reason shown by the respondent .

3. The Law

The Tribunal has to have regard to the provisions of section 98(1)(2) and (4) Employment Rights Act 1996 (ERA). Section 98(1) deals with the fact that the employer has to show the reason for the dismissal. Section 98(2) with the reason, amongst others, the employer having to show relating to the conduct of the claimant. Section 98(4) relates to once the reason has been proved that it depends on whether in the circumstances the employer acted reasonably or unreasonably in treating the conduct as a sufficient reason for dismissing the claimant and is to be determined in accordance with equity and the substantial merits of the case.

4. **Quality of Evidence**

- 4.1. Whilst I understand that the parties are both unrepresented the Tribunal has been considerably hampered by their approach to evidence.
- 4.2. Put simply the parties have failed to comply with the Orders made by the Tribunal relating to documents and witness statements.
- 4.3. The first hour of the hearing was spent putting together a file of documents and several more documents followed throughout the hearing.
- 4.4. There were no witness statements at all.

5. **Facts relating to Procedure**

- 5.1. In general terms the respondent failed to follow its own procedure which was contained in its handbook.
- 5.2. Although not obligatory, there was no investigatory meeting before the final disciplinary meeting. There was no minute as to why such a meeting was inappropriate.
- 5.3. In my opinion the staff handbook was unnecessarily withheld from the Tribunal but was eventually released.
- 5.4. The evidence was that the claimant was not given the right to be accompanied at the final disciplinary hearing.
- 5.5. The respondent did not adjourn to consider its decision before dismissal and if there was a reason for that it was not documented.
- 5.6. No notes of the final disciplinary hearing were produced to this hearing.
- 5.7. The respondent's only witness gave hearsay evidence and a Mr S McDonnell was the dismissing officer and would have given first hand evidence about the dismissal which was one of the most important aspects of the case.
- 5.8. Having said all that I have said about evidence and facts relating to procedure there are other matters which need to be taken into account.
- 5.9. Neither Evidence nor Procedure during the hearing an attempted settlement failed, taking up yet more time, because the respondent made an offer to the claimant without the authority of the Chief Executive Officer of the respondent, which offer was then declined.

6. **Other Facts**

The Tribunal having carefully reviewed all the evidence (both orally and documentary) before it finds the following facts (proved on the balance of probabilities):

- 6.1. On 29 August 2023 the claimant was given a written warning for leaving work, not waiting for an item and not answering his phone (see later for the claimant's view of this warning).
- 6.2. On 10 June 2024 the claimant received a final written warning for:-
 - 6.2.1. Loading things into a van that were not on delivery notes.

- 6.2.2. Failing to obtain the correct paperwork.
- 6.2.3. Failing to sign paperwork.
- 6.2.4. Not putting keys into the key safe.
- 6.2.5. Leaving a vehicle unlocked outside.
- 6.3. On or about 31 July 2024 the respondent discovered that the claimant had failed to do safety checks on the vehicle he had been driving over a period. After investigation the respondent was of the view that the claimant had duplicated driver check sheets, so that the claimant had incorrectly recorded actual mileage, fuel level, oil, lights, water and clean.
- 6.4. The respondent found that the claimant had taken a blank driver check sheet and pre-ticked safety checks and photocopied them – 10 were found in the van he was driving (see the claimant's explanation later). These sheets should obviously have been filled out in on a daily basis. Not to do so could be potentially dangerous.
- 6.5. The claimant also duplicated existing damage on the same sheet.
- 6.6. On 1 August 2024 the claimant was seen by Mr McDonnell, the transport and warehouse manager. Mr McDonnell dismissed the claimant for failing to do the vehicle safety checks on the vehicle driven by him evidenced by several photocopied reports submitted by the claimant. The final written warning referred to above was taken into account.
- 6.7. The claimant was given a right of appeal but did not exercise it (see for the claimant's view below).
- 6.8. The claimant told us:
 - 6.8.1. The photocopies were in a van previously used by him and not the one currently driven by him.
 - 6.8.2. That signatures on various documents were at variance.
 - 6.8.3. That the written warning on 29 August 2023 did not happen.
 - 6.8.4. The claimant was not responsible for making the photocopies.
 - 6.8.5. The claimant was told by the managing director Peter Dunne that an appeal against his dismissal would be a waste of time.
 - 6.8.6. The claimant said that he was singled out because he was "seeing someone in the office."
 - 6.8.7. That the reason for his dismissal was because the van he was driving broke down on 30 July 2024 which occupied him from 7.00 am in the morning to 4.00 am the next day and then he took time off work.
 - 6.8.8. The claimant said the whole thing, that is the matters for which he was dismissed, had nothing to do with him.

7. Determination of the Issues

(After listening to the factual and legal submissions made by and on behalf of the respective parties):

- 7.1. The Tribunal finds that the reason for dismissal was the claimant's conduct. There is conflict on the evidence but the Tribunal finds that there was more than adequate evidence to show the conduct of the claimant for which he was dismissed existed taking all circumstances into account.
- 7.2. The question of reasonableness is different because the respondent fell foul of a number of procedural shortcomings (see paragraph 5. above). The Tribunal could either make a finding of unfair dismissal and consider the claimant's contribution or the Tribunal could find that there was sufficient substantive evidence to find against the claimant, so that there was no unfair dismissal, and, therefore, a contribution by the claimant would not apply.
- 7.3. The Tribunal finds that the claimant gave no reasonable explanation for his conduct which differed from the manner in which the respondent's evidence was given. The Tribunal notes the respondent's shortcomings and hopes that it will reflect on how fortunate it is that the procedure did not bring it down this time.
- 7.4. In all the circumstances the claimant's claim of unfair dismissal is hereby dismissed.

Approved by Employment Judge Shulman

Date: 25 August 2025