



EMPLOYMENT TRIBUNALS

Claimant: Mr Chaitraraj Naik

Respondent Power Leisure Bookmakers Limited

On: 11th and 12th August 2025

Before: Employment Judge Shrimplin

Representation

Claimant: Mr Wamadi (solicitor)

Respondent: Mr Matovu (counsel).

Judgment

The claim for unfair dismissal under the Employment Rights Act 1996 s94 is not well founded and is dismissed.

The claim for unpaid holiday pay is not well founded and is dismissed.

Reasons

1. An oral judgment was delivered at the hearing on 12 August and written reasons have been requested by the claimant.
2. The full merits hearing was on 11 and 12 August 2025. I heard evidence from the claimant and, on behalf of the respondent, from Mr Kelly, Loss Prevention Officer, Mr Connors, People Relations Case Manager, and Mr Miah, District Manager. An agreed hearing bundle of 159 pages was provided and references to page numbers within this judgment are references to that bundle. I was also provided with written submissions.

Background

3. The claimant was employed from 12 July 2021 by the respondent, firstly at their betting shop in Acton and then, from October 2022, at their betting shop in Southall. He had requested the transfer as it was closer to his home.
4. The respondent produced extensive guidance to staff on the process of taking bets, both across the counter or through betting terminals. In short, as set out in Mr Miah's statement, the policy of the respondent was "*No money, No bet*". The policy and guidance states that *any act of credit betting is stated to be considered as gross misconduct and may result in disciplinary action being taken, up to and*

including dismissal (para 5.3 p44). Staff were trained in these processes on joining the company as was the Claimant specifically.

5. The disciplinary policy at paragraph 2.2 also states any serious breach of company rules or policies is an example of gross misconduct (p34).

Facts

6. Many of the facts in this matter were agreed or not disputed. On 4 September 2023, the respondent's anonymous whistleblowing system received an allegation that staff at the Southall betting shop were involved in credit betting, namely they loaded money onto betting machines for customers to place bets, without first having received payment from the customer. The staff member then took the payment for the bet from the winnings. (p59)
7. In response to the allegation, in the middle of September, Mr Kelly, from the respondent's Loss Prevention Team, undertook an investigation, reviewing the CCTV and other records for the previous 30 days from the Southall shop. CCTV is only retained for 30 days.
8. The claimant was identified as having enabled credit betting on 17 August, 31 August (although no bet was made) and 1 September 2023. He was suspended from his post on 15 September and interviewed on 18 September 2023 by Mr Kelly, when he accepted that he had engaged in credit betting. He stated he had been pressured into doing it by the shop manager and that others in that shop were involved as well.
9. Mr Kelly referred the matter for disciplinary proceedings as credit betting was considered a serious breach of policy, potentially resulting in loss to the respondent, and was capable of amounting to gross misconduct. (p81)
10. A disciplinary hearing was held on 28 September 2023 on the basis of the incidents on 17 August and 1 September 2023 only. Mr Connors interviewed the claimant and again the claimant accepted he had engaged in credit betting. At the end of the interview, the claimant was dismissed. This was agreed by the parties as the effective date of termination.
11. The respondent stated the claimant was dismissed for the reasons set out in a letter dated 3 October 2023 (p97) which may be summarised as follows: -
 - a. For engaging in credit betting, namely enabling customers to bet without taking the money in advance
 - b. For colluding with the customers in that practice
 - c. That the above had led to a serious breach of the trust and confidence placed in the claimant as an employee.
12. In reaching the decision to dismiss, Mr Connors also considered the Claimant's assertion that his manager had encouraged him to engage in credit betting, his length of service and the fact he had no disciplinary findings.
13. There was an appeal process, conducted by Mr Miah, in which the issues raised by the claimant were addressed. On the 13 November 2024, the claimant was informed by letter that the decision to terminate his employment had been upheld. (p118)

14. There was a subsequent investigation into the manager at the Southall branch and other employees, although not everyone was spoken to. Mr Kelly had not identified anyone else from the CCTV footage and the manager of the Southall Branch was interviewed (after the claimant's appeal hearing and the 13 November 2023 decision letter). The investigation into the Southall shop did not result in any action being taken.
15. The witnesses for the respondent provided examples of the respondent dealing with similar serious breaches of company policy by employees by dismissal
16. During cross examination, there were a small number of matters where the facts were not agreed which I set out below as far as may be relevant to the matters in issue.
17. The claimant did not accept that when he was trained, he had been given a copy of the disciplinary policy or the credit betting policy, nor had he been told that it was gross misconduct to engage in credit betting. He accepted that he was though aware of the "No money no bet" approach and later accepted that he knew his job was at risk if he broke that policy. He repeated that others at the Southall branch had been involved and he had been told to take the credit bets by his manager. He said that he had not reported it to Mr Miah as he had raised other concerns which had not been dealt with. He had also raised safety concerns which had been ignored.
18. The claimant believed that he had given sufficient information to the investigation against others, which was supported by another member of staff (who attended his interview) and inconsistencies in the interview notes of his manager. He did not understand why he was the only person who had been dismissed.
19. In one of the photographs produced, the claimant was seen sharing a tip from a customer with another employee. In cross examination, Mr Connors and Mr Miah said they did not consider this to be evidence of credit betting.
20. In dealing with the appeal, Mr Miah also considered the allegations by the claimant against others had not been substantiated by him and the investigation had not revealed any evidence. He also confirmed that the claimant had not raised these issues with him, despite visiting on a regular basis and having his contact details available. Nor had he raised any issues of personal safety or harassment, except in the disciplinary hearing.
21. In response to a question from me, Mr Connors accepted that the policies provided a discretion to dismiss but, in this case, considered that the trust and confidence between the respondent and the claimant had been broken. He also did not consider that the claimant had provided enough detail for him to take into account the alleged direction by the claimant's manager to take the bets when making his decision.

Finding of facts

22. I find as a fact (and it was not disputed) that the claimant had engaged in credit betting and that the grounds for dismissal were those set out in the letter of 28 September 2024.
23. I make no finding of fact in relation to the conduct of the other members of staff at that branch. I find that there was no one else against whom disciplinary action was taken as a result of the whistleblowing report on 4 September 2023 or as a result of

the investigation into the Southall Branch conducted by Mr Kelly.

24. I find (and it was not disputed) that the investigation into the claimant's conduct was procedurally fair and proportionate, that the claimant was informed of the matters raised against him and had the opportunity to put his case, namely, to raise issues, present evidence and make representations. He also had the opportunity to appeal and make further representations.

The Law

25. Section 94 of the Employment Rights Act 1996 (ERA 1996) sets out the right for employees not to be unfairly dismissed and Section 98 of that Act deals with the fairness of dismissals. For the purposes of this case, it provides as follows:

General.

(1) In determining for the purposes of this Part whether the dismissal of an employee is fair or unfair, it is for the employer to show—

(a) the reason (or, if more than one, the principal reason) for the dismissal, and

(b) 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.

(2) A reason falls within this subsection if it –

(b) relates to the conduct of the employee,

(4) Where the employer has fulfilled the requirements of subsection (1), 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.

26. Determining whether a person has been unfairly dismissed is therefore a two-stage process. Firstly, the employer must show that it had a potentially fair reason for the dismissal, that is a reason which falls within s98(2) of the Act. If, and only if, the employer shows that it had a potentially fair reason for the dismissal, the tribunal must consider the matters set out in s98(4) of the Act and decide whether the employer acted fairly or unfairly in dismissing the employee.

Conclusion on grounds for dismissal

27. I am satisfied that the reason for dismissal was the claimant's conduct which falls within s98(2) ERA 96 and is therefore a potentially fair reason for dismissal.

Fairness of the dismissal

28. Having so found, the question of the fairness of the dismissal falls to be determined under section 98(4) of the ERA 1996.

29. I have applied the three-stage test in the leading case of ***British Homes Stores Ltd v Burchell [1980] ICR 303***, namely, to consider whether the respondent acted reasonably in all the circumstances and, in particular,
- whether there was a genuine belief in the reasons for dismissal,
 - whether there were reasonable grounds for that belief and
 - whether there was a reasonable investigation
30. In the light of the findings of fact made above, I conclude that, at the time the Claimant was dismissed, the respondent had undertaken a reasonable investigation, had a genuine belief in the reasons for dismissal as set out in the dismissal letter, and had reasonable grounds for that belief. That was also the position when the dismissal decision was upheld on appeal.
31. The reasonableness or otherwise of the employer's final response, with reference to the above guidance in Burchell, is assessed with reference to the "range" or "band" of reasonable responses test. It is not the role of the Tribunal to assess the evidence and to decide whether the claimant should or should not have been dismissed or to substitute its decisions for the decisions made by the respondent. ***Sainsburys Supermarkets v Hitt [2003] IRLR 23***.
32. The range of reasonable responses is such that it may be possible for some reasonable employers to dismiss and some reasonable employers to impose a lesser sanction short of dismissal. Therefore, a dismissal will only be unfair if dismissal is a sanction outside that range and if no reasonable employer would have dismissed on that basis.
33. In his skeleton argument, Mr Wamadi for the claimant invited me to find that the dismissal was not fair because the claimant was not treated consistently. He argued that the information provided by the claimant in relation to other employees in the Southall shop during his dismissal hearings was sufficient for disciplinary action to be taken by the respondent against those persons. By not taking action against them, particularly by dismissing them, the respondent had not been consistent in its response to the whistleblowing report and its treatment of the claimant. Reference was made to the following cases in the skeleton argument :-
- Post Office v Fennell [1981] IRLR 221***
 - Hadjioannou v Coral Casinos Ltd [1981] IRLR 352***
 - Eagle Star Insurance Co Ltd v Hayward [1981] ICR 860***
34. Mr Matovu for the respondent argued that the need for consistency only arises where two people in the same situation are dealt with in different ways. The claimant's case should be considered separately from anyone else's. The whistleblowing report had not identified any one person and so the investigation had considered everyone during that period. The claimant was the only person where evidence was found and so there was no one else to compare against. In any event, the witnesses were clear that others who had committed serious breaches of company policy, unrelated to this incident but similar in nature, had been dismissed.
35. I have considered whether the decision to dismiss by the respondent was within the band of reasonable responses open to a reasonable employer and, as part of that, whether the process followed was fair. I have also considered "equity and the substantial merits of the case"

Conclusion

36. I conclude that the dismissal was within the range of reasonable responses which was open to the respondent for the misconduct by the claimant, that the respondent was consistent in its approach to this type of conduct, and that the process followed was fair. Therefore, I conclude the claimant's dismissal was not unfair within the terms of the Employment Rights Act 1996.

37. The claim for an award for the failure to provide a statement of particulars of employment under the Employment Rights Act 1996 s1 cannot succeed where the dismissal is not unfair and is dismissed.

Holiday pay claim

38. The claimant claimed unpaid holiday on dismissal. In October 2023 he was paid £666.83 for 55.1 hours. He had not been provided with a contract of employment.

39. The claimant calculates that he is still owed 16.9 hours at £12.10 per hour totaling £204.49. This is calculated on the basis that he worked 8 hours a day, for 4 days a week, which was full time working of 32 hours (sometimes longer). He was entitled to 28 days leave each year which amounted to 224 hours. His pro rata leave entitlement from 1 January 2023 to dismissal in September 2023 was 21 days or 168 hours, of which he had taken 12 days or 96 hours. He was therefore owed 9 days or 72 hours and had only been paid for 55.1 hours.

40. The respondent calculates the holiday on a different basis (using the Government online calculator) on the grounds that 32 hours per week was a part time role and therefore that the annual entitlement was 179.2 hours per year. The pro rata entitlement for 2023 until dismissal was 133.6 hours, of which the claimant had taken 96 hours. He was therefore owed 37.6 hours. His average pay over the preceding 12 months was slightly higher and the amount due was therefore £511.43, meaning that the claimant had been overpaid.

41. It is for the claimant to prove the amounts owed. Having considered the pay slips, the work rotas and the claimant's evidence, I find that he was a part-time worker doing 4 days or 32 hours a week, albeit often doing additional work outside his contracted hours for which he was paid overtime.

42. I therefore conclude that there were no monies owed for holiday pay on the basis put forward and dismiss the claim.

Approved by
Employment Judge Shrimplin

Date: 6th October 2025

SENT TO THE PARTIES ON

10 October 2025
AND ENTERED IN THE REGISTER

.....
FOR TRIBUNAL OFFICE

Note

Written reasons will not be provided unless a written request is presented by either party within 14 days of the sending of this written record of the decision.

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.