



EMPLOYMENT TRIBUNALS

Claimant: Gerard Donnelly

Respondent: Wirral Borough Council

Heard at: Manchester (by video)

On: 6th, 7th & 8th October 2025

Before: Employment Judge Cline (sitting alone)

Representation

Claimant: In person

Respondent: Mr Kevin McNerney, counsel

JUDGMENT having been sent to the parties on 19th November 2025 and written reasons having been requested by the Claimant in accordance with Rule 60(4)(b) of the Employment Tribunals Rules of Procedure 2024, the following reasons are provided:

REASONS

Introduction and Background

- 1) This matter was heard over 3 days from 6th to 8th October 2025 and an oral decision was delivered at its conclusion; written reasons were requested by the Claimant by email on 15th October. Any references to specific pages of the agreed hearing bundle herein will be by way of square brackets, for example [220] or [34-54].
- 2) By way of his ET1 claim form received by the Tribunal on 5th December 2023 [11], the Claimant, Mr Gerard Donnelly, brought claims for unfair dismissal and unpaid holiday pay. He did also bring claims for disability discrimination but these were dismissed by Employment Judge Lloyd following a hearing on 14th October 2024 as she found that he had not established a disability for the purposes of Section 6 of the Equality Act 2010.
- 3) The Claimant worked for the Respondent Council in various roles from 2018 to 21st July 2023, when he was dismissed summarily for gross misconduct from his role as a museum assistant at the Williamson Art Gallery in Birkenhead. During the course of the hearing, I heard evidence from the Claimant and, for the Respondent, Mr Mike Cockburn and Mr Peter Wallach; they had all produced witness statements which I considered carefully. There was an agreed hearing bundle, much of which was not referred to during the course of the hearing but I did consider all parts of it that were highlighted as the

hearing progressed, as well as any other documents which I considered relevant during my deliberations. The page numbers cited in this decision will be references to that agreed bundle unless specified to the contrary. I also had the benefit of a cast list and chronology prepared by the Respondent. Finally, I was mindful of the list of issues contained in the case management order of Employment Judge Barker dated 24th July 2024 [41].

- 4) I kept in mind throughout that the Claimant has the burden of proof in establishing his claims where, as here, the reason for dismissal was uncontroversial and the burden applies in the usual way in respect of the holiday pay claim. There were, as set out below, very few disputed aspects of the evidence and, indeed, much of my consideration involved analysing the overall fairness of the dismissal process and the subsequent appeal. When making any factual finding which I considered I was required to make in order to resolve the case, I reminded myself that the standard of proof is the balance of probabilities and that, as such, I had to decide which account was more likely to be correct than not. When assessing fairness, there is no standard of proof but I had to decide any such issue on the basis of what a reasonable tribunal would be able to decide. In doing so, I considered all the evidence before me, namely documents in the bundle, the witness statements and the oral evidence. For the avoidance of doubt, I did not find any of the witnesses to have been dishonest or intentionally misleading; I was conscious throughout of the inevitable frailties of human memory and that I was dealing with matters which took place some time ago and which I had to examine in some detail in order to deal justly with the case.

Chronology of Relevant Events

- 5) As noted above, the Claimant commenced his employment in 2018. In early 2022, concerns were raised by colleagues about his behaviour. On 26th March, the Claimant had an argument with Sam Whitham after some of the Claimant's personal items were moved from a hot desk and he was described as having been verbally aggressive; on 31st March, the Claimant questioned whether Mr Whitham's appointment was linked to family connections. Managers asked the Claimant to leave the premises and he was reported to have refused to do so until the instruction was provided in writing. On 1st April, the Claimant declined a meeting with his manager and was instructed to remain off-site until union representation could be arranged. A formal warning was issued to the Claimant on 26th April 2022 [377–378] in respect of his behaviour towards colleagues; the warning was stated to last for 6 months.
- 6) On 22nd July 2022, the Claimant was suspended after sending an email to Colin Simpson, a former principal museums officer, the previous day (21st July). The email [373-4], reads as follows:

As you can read below, your actions have not been met. Such is the inactivity of your time at WAG. Thank goodness that that colonialism atrocity Waterloo has been hung in the back.... yet only to be replaced by some white Middle Class biscuit tin tea scene by your even more uninteresting understudy and that Sam Whitham, that son of a trustee.

I have met a few of your colleagues- whilst wandering, none of them had a good word about you. Even the lowly Frank betrayer of

Scotland "Campbell" kissed your ass as you lapped it up even though he pretends not to hate you. Orange marcher that he is. And Freemason facilitator that you are.

From what I have heard of you behind the scenes, you are a disgrace and being the entity that has been "A door mat all your life" I suppose a nose at another woman was your little freaky outlet.

I have heard about how you made Emma Williamson uncomfortable and Jools also on your soirees beyond. And your comment to Anna Kennedy made me sick. Salaciousness.

I'm glad you are going. Now go Tell JB about this email so she may seek some sort of revenge on your part like a shit ghost in a shit play.

You Coward.

18th of May and still I wait for my wellbeing meeting.

You Sir, care more about what hangs on the walls than who hangs them.

I won't be needing you as a reference.

Good riddance Coward. You are cancelled.

Gerard Donnelly.

- 7) Prior to this email, the Claimant had also sent an email on the same day with the title "Toxic" to Joanne Burns, his manager at the time, which read as follows [381-2]:

Hello,

I have some questions.

Several gross misconducts below.

Given the confidential rules laid out in detail by Wirral Borough Council, can you explain to me why you called an ex-employee "Toxic" Jim Whelan (I have informed him) And why Lynn McGinn "cried on your shoulders" Breach of confidentiality.

And why you stated to Julie Neman Vidler (I was a witness at the FOH desk) that "Anna was too big to be a Bunny" (Body Shaming) And why you promoted (better grade) an employee that has consistently shirked his team duties (many examples will follow such as not actioning a blocked toilet then coming looking for us (the FOH staff, to do his job for him which JMV was upset about) or fixing the door to gallery 4 which JB was up the ladder to)

And that you also stated that when the roofers come around "You can chat them up and we can get the flag pole taken down" To Anna Kennedy and thereby objectifying AK and using her body and her as

a negotiating tool? Objectifying her. By the way, I believe AK called a meeting and had JB and LM crying floods of tears.

Also, why you hugged a woman who is in her 90's in the height of the pandemic? Elizabeth?

And why you were not on watch when Samuel Whitham "hi fived" - other members of staff that subsequently caught Covid -19? SW Subsequently felt guilty to passing it on to her. (See Colin Simpson) SW also laughed at me for wearing ("cheap reading glasses) Poverty Shaming.... Post Equality training! More to come on SW

And also why you didn't shut the Gallery down until I spoke out about the ventilation? Who was the Health and Safety Officer then? And what did he/she not speak up for our safety? And that I had to?

And why Lyndsay Mitchelson pulls the corners of her eyes back to try to specify an Oriental? Or call people a "Mong" (LM) consistently) Other FOH have reported this also LM calling people a "Mong"? (Shaming mentally ill people) and being a racist))

I would also like to know why you (Joanne Burns) bullied me and harassed and shouted at me on the front desk, in the kitchen (shutting the door) and in gallery 2 where it was clear I was having a panic attack.?

Can you also inform me as to why Anna Kennedy's buttocks were grabbed on both cheeks by LM. Is this OK now to behave in this manner? Jools was also present. (Sexual assault) Not asked for.

I asked for a Welfare Meeting many months ago. Never was it actioned. I would like to know why not?

I would also like to know why you have consistently refereed (sic) to me as "Jedwood" when you know my name is Gerard/Ged. Even since I informed you that my mother and father (who gave me that name as a child) would not find it respectful on advice of OH.

And finally, Samuel Whitham retorted (sic) to me that he told a "joke" about the Hillsborough Disaster of April 1989 whilst he was in university in Manchester. He uttered onward that some "Scouser" took umbrage to it. I expect he (SW) expected me to laugh. I did not. I was revulsed. The support group has been notified. They informed me that they will be in touch with WCC as soon as possible.

HSA

This site is designed to provide help and support to all that were affected by the events at Hillsborough on Apr...

More to come.

You, Joanne Burns, will be selected for a grievance procedure presently.

Regards,

Gerard Donnelly

- 8) On 29th July 2022, Samantha Greenhalgh, a team leader in the Respondent's children's services department, was appointed as investigating officer and tasked with looking into whether the Claimant had breached the Respondent's disciplinary policy. The Claimant also submitted a formal grievance on 9th August [247-256]; the details will not be repeated here but it ran to some 8 pages and included complaints about many aspects of the "culture" of the museum, referring to a lengthy list of actions by specific colleagues which he considered to have been unacceptable, including what he described as

bullying, harassment, improper disclosure of information and “conduct at work likely to offend common decency”.

- 9) The investigation concluded on 17th May 2023 and the report [93-231] summarised allegations that Mr Donnelly displayed bullying and intimidatory behaviour through emails, breached the employee code of conduct, failed to uphold public trust and maintain high standards of ethics and behaviour, displayed disruptive or unacceptable behaviour, refused to follow instructions and failed to comply with organisational rules and procedures. Ms Greenhalgh interviewed a number of witnesses on 5th August 2022 and took statements from them, including Lyndsey Mitchelson (front of house manager) [232–235], Sam Whitham (museum assistant) [236–238], Niall Hodson (curator) [239–240], Amber McGarry (museums assistant) [241], Lynn McGinn (schools resources officer) [242–243] and Julie Foster (documentation assistant, referred to as “Jools” in the Claimant’s emails) [244–245]. Further interviews were conducted with Joanne Burns (museums manager) on 30th August [279–284], Julie Newman Vidler on 23rd September [289–291] and Colin Simpson on 28th September 2022 [292–294]. The Claimant was interviewed twice, on 18th and 25th October, with his trade union representative present [295–299 and 342–355]. Additional statements were obtained from Francis Campbell on 6th January 2023 [312–313] and Caroline Richardson and Caroline Fitzpatrick on 12th January [314; 315–316].
- 10) Ms Greenhalgh concluded that the allegations against the Claimant were substantiated, citing multiple incidents when his behaviour towards colleagues was described as aggressive, disruptive and in breach of instructions. The report highlighted that the Claimant had previously received a formal warning on 26th April 2022 and that further incidents had occurred thereafter; and recommended that matters should move towards a disciplinary process. There was specific reference to “both positive and negative feedback regarding [the Claimant], his attitude and his work ethic and it is clear that there is a differing of opinion regarding him”. It goes on to say that the Claimant “has engaged fully in the investigation, but it is clear that his view of events and his colleagues is seen through his own perspective and given some of the comments made by him and about him, I cannot see how he would be able to return top (sic) the museums and galleries service, despite this being his request”. Finally, “[i]n relation to the Gross Misconduct allegations there is evidence outlined above that supports this in all areas. However, I would also note the comments of Anna Kennedy in her email who offers a very different view of the situation within the gallery than has been shared with others”. The Claimant’s grievance was also considered but I considered that detail to be outside the scope of this judgment and it is not repeated here.
- 11) The Claimant was invited to a disciplinary hearing to take place on 21st July 2023. The allegations to be considered were that the Claimant:
- a. Displayed bullying and intimidatory behaviour towards colleagues, through emails sent;
 - b. Breached the Council’s code of conduct;
 - c. Failed to uphold public trust and maintain high standards of ethics and behaviour within and outside of work;
 - d. Displayed disruptive or unacceptable behaviour;

- e. Unreasonably refused to follow instructions issued by a manager;
and
 - f. Failed to comply with organisational rules and / or procedures.
- 12) The disciplinary hearing was chaired by Mike Cockburn, the Respondent's assistant director for climate emergency and environment, who had no prior involvement in the case, and minutes were taken [85–92]. The Claimant attended with his trade union representative, Joel Mansell. Samantha Greenhalgh attended to present her findings. The Claimant admitted sending the email of 21st July 2022 to Colin Simpson and expressed regret but asserted that management failures and a toxic workplace culture contributed to his actions. He referred to the lack of welfare meetings, a failure to implement occupational health recommendations and delays in addressing his grievances.
- 13) After considering the evidence, Mr Cockburn concluded that the Claimant's behaviour amounted to gross misconduct and that he would be dismissed without notice. He noted the seriousness of the email to Colin Simpson, describing it as "shocking and not acceptable," and considered that, taken cumulatively with other incidents, dismissal was the appropriate sanction. The decision was communicated verbally at the hearing and confirmed in writing by way of a letter dated 26th July 2023 [83–84]. Notably, in this letter, it is said that the sending of emails to colleagues alone, including the email of 21st July to Colin Simpson, was found to amount to gross misconduct.
- 14) The Claimant lodged an appeal on 11th August 2023 [82], asserting that the sanction was disproportionate and that undue delays and the culture of the gallery had exacerbated his mental health issues. The appeal hearing took place on 18th October 2023 and was conducted as a re-hearing by a panel chaired by Peter Wallach, the director of the Merseyside Pension Fund, assisted by two senior officers; minutes were taken [361–368]. The panel reviewed the investigation report, the disciplinary hearing minutes and additional documents, including original emails and statements. The Claimant reiterated his regret over the email to Mr Simpson but also raised concerns about workplace culture, alleged discriminatory behaviour and failures to implement occupational health recommendations. He also suggested redeployment as an alternative to dismissal.
- 15) Further submissions were received from the Claimant and his trade union representative after the appeal hearing [397–399]. The appeal panel upheld the decision to dismiss; this outcome was confirmed in writing by way of a letter dated 11th January 2024 [430–437]. The appeal decision reiterated that the email to Colin Simpson alone was sufficient to constitute gross misconduct and that, especially when taken together with other incidents, dismissal was within the reasonable range of responses.

Relevant Law: Unfair Dismissal

- 16) The law to be applied to the claim for unfair dismissal was not controversial between the parties but a short summary of the applicable legal principles which I kept in mind when considering these issues is appropriate at this point.

- 17) Section 94 of the Employment Rights Act 1996 (“ERA”) confers on the Claimant the right not to be unfairly dismissed. Enforcement of the right is by way of complaint to the Tribunal under section 111. The Claimant must show that he was dismissed by the Respondent under section 95; in this case, this was not (and could not reasonably have been) in dispute.
- 18) Section 98 of the ERA deals with the fairness of dismissals. There are two stages within Section 98. First, the Respondent must show that it had a potentially fair reason for the dismissal within Section 98(2). Second, if the Respondent shows that it had a potentially fair reason, the Tribunal must consider, without there being any burden of proof on either party, whether the Respondent acted fairly or unfairly in dismissing for that reason. In this case it did not appear to be in dispute that the Respondent dismissed the Claimant because it believed he was guilty of misconduct. Misconduct is a potentially fair reason for dismissal under section 98(2). The Respondent has therefore satisfied the requirements of section 98(2).
- 19) Section 98(4) then deals with fairness generally and provides that the determination of the question whether the dismissal was fair or unfair, having regard to the reason shown by the Respondent, shall depend on whether in the circumstances (including the size and administrative resources of the Respondent’s undertaking) the Respondent acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the Claimant; and this shall be determined in accordance with equity and the substantial merits of the case.
- 20) In misconduct dismissals, there is well-established guidance for the Tribunal on fairness pursuant to Section 98(4) in the decisions in British Home Stores Ltd v Burchell 1978 IRLR 379 and Post Office v Foley 2000 IRLR 827. The Tribunal must decide whether the Respondent had a genuine belief in the Claimant’s guilt. Then the Tribunal must decide whether the employer held such genuine belief on reasonable grounds and after carrying out a reasonable investigation. In all aspects of the case, including the investigation, the grounds for belief, the penalty imposed, and the procedure followed, in deciding whether the Claimant acted reasonably or unreasonably pursuant to Section 98(4), the Tribunal must decide whether the employer acted within the band or range of reasonable responses open to an employer in the circumstances. I reminded myself that it is immaterial how the Tribunal would have handled the events or what decision it would have made, and that the Tribunal must not substitute its view for that of the reasonable employer (Iceland Frozen Foods Limited v Jones 1982 IRLR 439, Sainsbury’s Supermarkets Limited v Hitt 2003 IRLR 23 and London Ambulance Service NHS Trust v Small 2009 IRLR 563).

Analysis of the Fairness of the Dismissal

- 21) As noted above, as this was a claim for unfair dismissal, I was tasked only with assessing the overall fairness of the dismissal process and not with making my own findings as to whether or not the Claimant committed gross misconduct and / or should have been dismissed summarily. In considering these issues, I was mindful of the list of issues (insofar as it was relevant to this claim) appended to Employment Judge Barker’s case management order of 24th July 2024 [53-4], which set out the following:

2.1 It is agreed between the parties that the claimant was summarily dismissed on 21 July 2023 and the potentially fair reason was (gross) misconduct.

2.2 If the reason was misconduct, did the respondent act reasonably in all the circumstances in treating that as a sufficient reason to dismiss the claimant? The Tribunal will usually decide, in particular, whether:

2.2.1 The respondent genuinely believed the claimant had committed misconduct;

2.2.2 there were reasonable grounds for that belief;

2.2.3 at the time the belief was formed the respondent had carried out a reasonable investigation;

2.2.4 the respondent followed a reasonably fair procedure;

2.2.5 dismissal was within the band of reasonable responses.

2.3 It is the claimant's case that the respondent carried out an unfair and unreasonable procedure, in that they did not check CCTV evidence that potentially confirmed his version of events, did not question his manager's behaviour when the claimant made allegations against her, and so failed to understand the context of the situation, delayed unreasonably in the investigation, and were biased because a colleague was the son of one of the board of trustees of the museum.

22) Although the Claimant had the opportunity during the course of the hearing to ask questions of the Respondent's witnesses and to make submissions in support of his claim, he did not raise many specific criticisms of the disciplinary or appeal processes that I considered to be relevant to my analysis of their overall fairness. When it came to making his submissions at the conclusion of the hearing, the only points that the Claimant was able to highlight which were relevant and / or had been put during cross-examination can be summarised as follows:

- a. He was never told that the appeal process was a full re-hearing and did not know this until he saw Mr Wallach's witness statement;
- b. He was not aware that there was "any such thing" as oral evidence during the disciplinary or appeal hearings;
- c. He had never asked for the email to Colin Simpson to be excused, but merely to be understood in light of what had happened to him;
- d. When the investigation had been carried out, there were "many people" who could have been interviewed but were not; and
- e. Once he had been suspended, there was "little contact" from his new manager and he would have expected more in the circumstances.

23) Putting together the parties' submissions at the conclusion of the hearing and the list of issues, I made the following findings in respect of the fairness of the dismissal.

24) There was no discernible assertion by the Claimant of an absence of a genuine belief that misconduct had occurred. Nonetheless, I considered the

point carefully and could see no cogent argument to this effect on the evidence before me. The investigation was carried out by an independent person, as were the disciplinary and appeal hearings, and both the documentary evidence and the oral evidence of Mr Cockburn and Mr Wallach during the hearing left me in no doubt that they had taken their roles seriously, had understood the need to analyse the information before them in an objective manner and had given the Claimant the opportunity to put his side of the argument.

- 25) Similarly, there was no discernible assertion by the Claimant that there had not been reasonable grounds for the belief that there had been misconduct. The length of the investigation report is of course not, in itself, demonstrative of its reasonableness but I found it to have been exemplary in the care that was taken to interview as many people as possible and to analyse what they had said in light of the Claimant's position. Much of what the Claimant was raising related more to his own grievance than to the allegations against him and, whilst Ms Greenhalgh did decide both elements together (with the Claimant's agreement), I found her to have been acting entirely appropriately when she took the view that her primary role had been to focus on the allegations of misconduct against the Claimant, albeit that the substance of his grievance could be seen as relevant background context.
- 26) I also noted that the Claimant was supported by a union representative throughout the process and, as such, his assertions that he did not know that there was "any such thing" as oral evidence at the hearings (and that no such evidence was heard), or that the appeal was a re-hearing, were very difficult to accept. However, even if, as a matter of fact, he did not know these to be the case, I could not see that the process would have been in any way different given the opportunity he had, with representation, to put his case. Although the Claimant asserted in submissions that there were other people who could (and should) have been interviewed, there were no specific suggestions made either during the disciplinary or appeal hearings or during the course of the hearing before me; as such, I had little choice but to take this as no more than a bare assertion without any cogent evidential underpinning.
- 27) The thoroughness of the investigation is noted above. Having considered the minutes of both the disciplinary hearing and the appeal hearing, I could see no argument that they too were not carried out in a thorough and independent manner. I considered the Respondent's own disciplinary procedure [328-338] and found it to be a reasonable policy which had been implemented appropriately in this case.
- 28) The heart of the Claimant's argument appeared to be that he should not have been found guilty of gross misconduct and / or should not have been dismissed summarily as a result. I was of course not tasked with forming my own view on this question but only with determining whether or not these decisions were within the band of reasonable responses open to the Respondent at the time. In both the disciplinary outcome letter of 26th July 2023 [83] and the appeal outcome letter of 11th January 2024 [430], there was consideration of the appropriateness of the sanction. The disciplinary outcome letter refers to the Claimant's mitigation and to the fact that the email to Mr Simpson was sent 3 months after the formal warning was given (which

lasted for 6 months). Although the consideration of mitigation was not set out in significant detail in the letter, it had clearly been a factor and I found that any such deficiency was remedied by the careful consideration reflected by the appeal outcome letter, which referred to the Claimant's mental health at the time, his grievance and the lack of any welfare meeting despite his request for one, but also referred to the lack of remorse for sending the email to Mr Simpson and the lack of any justification for having sent it in the first place.

- 29) The reference in the list of issues to CCTV not having been considered seemed to me to be irrelevant given that the main basis for the Claimant's dismissal, namely the email to Mr Simpson, was not in dispute and would not have been impacted by CCTV. This argument was not developed by the Claimant before me and I was unable to see how it could be said that the outcome could have been affected if any footage had been viewed.
- 30) The Claimant also referred to delay. As a matter of fact, the investigation was commenced in August 2022 and did not conclude until March 2023, which is a period of some 7 months. However, I found that to be a reasonable period given the length of the resulting report and the efforts made to collate as much information as possible; this, in my view, augmented the fairness of the process and I could see no way in which it rendered it unfair. Whilst the delay was no doubt stressful for the Claimant, that in itself does not cause the dismissal to have been unfair.
- 31) The Claimant also asserted that the investigation and decision to dismiss were unfair because one of the witnesses involved, Sam Witham, was the son of a trustee. Aside from putting the allegation in cross-examination (when any bias or unfairness was denied), the Claimant produced no evidence that Mr Witham's familial ties had any impact on the outcome. In any event, as noted above in respect of other criticisms, I saw no way in which such a relationship could have affected the outcome when it was based largely, if not entirely, on the email sent to Mr Simpson.
- 32) For the reasons given above, I found that the dismissal process was fair, both in respect of each individual element and cumulatively. Whilst the decision to dismiss could certainly be viewed as being towards the upper end of the relevant spectrum of severity in all the circumstances, I reminded myself that I must not replace my own view on sanction and can only assess whether or not it was reasonably open to the Respondent to dismiss. Given the content of the email sent to Mr Simpson, the Claimant's lack of remorse and the impact that it clearly had on his working relationships, I found that such a decision was indeed reasonably open to them.
- 33) I emphasised at the conclusion of my oral decision, and repeat now, that I could see very clearly the difficulties that the Claimant had during his time working for the Respondent but this is not within the Tribunal's jurisdiction to consider. In reality, the only issue in any substantial dispute was the extent to which mitigation was considered and, as noted above, I was satisfied that the Respondent took into account that mitigation to the extent that was required. Even if I may have had considerable sympathy for the obvious distress experienced by the Claimant during his employment, that does not in itself mean that the decision to dismiss must have been unfair as it relates

to his own misconduct and not to the conduct of others (save for the role of any possible mitigation).

Unpaid Holiday Pay

34) The evidential basis of the claim for unpaid holiday pay was somewhat unclear. It was put to the Claimant that, when he had initially queried whether there was any outstanding holiday pay, he had been sent a breakdown [500] setting out that he had in fact been overpaid by 10 days in July 2023 because he had been paid for the full month despite having been dismissed without notice on 21st July. The Claimant accepted this when it was put to him and also accepted that, by that stage, the number of days of annual leave that he had accrued was less than 10 days. I therefore found as a matter of fact that the Claimant had, in effect, been overpaid by more days than he could have accrued in holiday pay.

35) Although the Claimant did not frame his claim in this manner, I did consider it fair to analyse the provisions of Sections 13 and 14 of the ERA. In effect, the Respondent's argument was that the Claimant had been paid any outstanding holiday pay by way of a set-off with the overpayment made in error as this is an exception to the general rule against unauthorised deductions set out at Section 13, which appeared to be the legal basis of the claim being made. Section 14 says that: "*Section 13 does not apply to a deduction from a worker's wages made by his employer where the purpose of the deduction is the reimbursement of the employer in respect of... an overpayment of wages... made (for any reason) by the employer to the worker*". On my own analysis, and in the absence of any argument to the contrary by the Claimant, I accepted the Respondent's argument that, in these circumstances, the holiday pay claim must fail.

Conclusion and Disposal

36) For the reasons set out above, the claims for both unfair dismissal and outstanding holiday pay were not well-founded and were dismissed.

Employment Judge Cline

Date: 1st December 2025

REASONS SENT TO THE PARTIES ON
Date: 23 January 2026

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FOR THE TRIBUNAL OFFICE