



EMPLOYMENT TRIBUNALS

Claimant: Mr Stewart Latimer

Respondent: Steer Automotive Group

Heard at: East London Hearing Centre

On: 9-10 September, 11 September (in chambers)
12 September 2025

Before: Employment Judge Barrett

Representation

Claimant: Represented himself

Respondent: Mr R Fitzpatrick of counsel

JUDGMENT having been sent to the parties on **7 October 2025** and written reasons having been requested on **17 September 2025** (following oral judgment) in accordance with Rule 60 of the Employment Tribunals Rules of Procedure, the following reasons are provided:

REASONS

Introduction

1. The Claimant, Mr Stewart Latimer, worked for the Respondent, Steer Automotive Group, until he was dismissed on 17 July 2023. Mr Latimer submitted his ET1 claim form on 23 November 2023 after going through ACAS early conciliation between 12 October and 17 November 2023.
2. A preliminary hearing was conducted by Employment Judge Emery on 29 February 2024. At that hearing, the Employment Judge asked questions about the claim and recorded that it was a claim for automatically unfair dismissal. Mr Latimer said he made several whistleblowing disclosures about spraying primer in an open environment, which is a health and safety issue. He said he made the disclosures to his line manager, Mr Jamie Doyle and to the Head of

HR, Mr Martin Smith. He said this resulted in his managers trying to push him out because he was complaining.

3. Employment Judge Emery noted in his record of the case management hearing that,
“There are issues within the claim form which pre-date Mr Latimer's dismissal process, such as being ostracised. We discussed the concept of background evidence — issues which are not legal allegations, but which are disputed issues of fact which Mr Latimer believes supports his legal claims.”
4. In the list of issues sent to the parties after the hearing, it was clear that the claim itself was about Mr Latimer's dismissal, and that the earlier concerns about being ostracised were relied on as background matters rather than amounting to a claim in themselves.
5. At the time of the preliminary hearing, the Respondent asked for more information about the whistleblowing disclosures that Mr Latimer made, which Mr Latimer subsequently provided. By the close of the hearing before me, the Respondent accepted that Mr Latimer made all the whistleblowing disclosures he alleged, so I was not asked to decide whether or not these happened.

The legal test to be applied

6. The only legal issue for me to decide was whether the Respondent's reason for dismissing Mr Latimer was because he made the whistleblowing disclosures. The right not to be dismissed for making whistleblowing disclosures is provided by 103A of the Employment Rights Act 1996, which says an employee will be regarded as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee made a protected disclosure. A “protected disclosure” is a whistleblowing disclosure.
7. Mr Latimer had less than two years' service with Steer at the time when he left, which meant he was not able to bring an ordinary claim for unfair dismissal. In an ordinary unfair dismissal claim, a Tribunal looks at whether there was a fair reason for dismissal and whether a fair process was followed. In this case, I only had to decide whether the principal reason for dismissal was that Mr Latimer made his whistleblowing disclosures. If I found that it was, the claim would succeed. If I found that it was not, the claim would fail.
8. In cases such as this one where a claimant does not have the necessary qualifying service to bring an ordinary unfair dismissal claim, the burden of proving the reason for the dismissal lies with the claimant: *Ross v Eddie Stobart Ltd* EAT 0068/13. The ‘reason’ for a dismissal is “a set of facts known to the employer, or it may be of beliefs held by him, which cause him to dismiss the employee”: *Abernethy v Mott, Hay and Anderson* [1974] ICR 323, 330B-C, NIRC.

The hearing

9. The first witness I heard from was Mr Smith, who was Head of HR at Steer at the relevant time. He gave his evidence by video, and answered questions put to him by Mr Latimer. Mr Smith gave his evidence first because he was only available on that day. Mr Smith was the person to whom Mr Latimer made some of his

whistleblowing disclosures. He was also the person who made the decision to dismiss Mr Latimer.

10. On the morning of the second day of the hearing, Mr Latimer gave his witness evidence and was cross-examined by Mr Fitzpatrick.
11. After that, Mr Kevin Whitaker gave his evidence by video and answered questions put to him by Mr Latimer. Mr Whitaker was the Customs Operations Director at Steer and he heard Mr Latimer's appeal against his dismissal.
12. The Respondent also provided a written witness statement from Mr Doyle, Mr Latimer's line manager. His job title was Business Leader Designate and he was responsible for the day-to-day running of the Respondent's site in Gray's where Mr Latimer worked. He was a relevant witness because Mr Latimer's case was that his working relationship with Mr Doyle deteriorated after he made the whistleblowing disclosures, and this was relevant background leading up to his dismissal. Mr Doyle was unable to attend the hearing due to a family bereavement. Mr Latimer told me all the things he disagreed with in Mr Doyle's statement. When making my decision, I put less weight on the parts of Mr Doyle's statement which Mr Latimer disputed, because Mr Doyle was not able to come to the Tribunal and answer questions about those things.
13. As well as telling me the parts of Mr Doyle's statement which he disagreed with, Mr Latimer made a closing submission explaining why he asked the Tribunal to make a finding of automatically unfair dismissal. He said that he felt the dismissal process was one-sided from the outset. There had been an altercation between himself and another employee, and they should both have been suspended pending investigation, but he was immediately suspended and the other employee was not. He felt the company had not followed its own guidelines in that regard. He had a concern that CCTV footage relied on in the investigation had been tampered with. Mr Latimer also said that he had tried to go through the right channels to make health and safety disclosures and his concerns had not been acted on, and this was part of the picture leading up to his dismissal.
14. Mr Fitzpatrick made closing submissions for the Respondent in which he made three main points. In summary, these were that: 1) Mr Latimer commented himself when giving evidence that he believed the altercation was the cause of his dismissal; 2) on the evidence before Mr Smith, it was unsurprising that Mr Smith decided to dismiss for gross misconduct; and 3) Mr Smith had not reacted negatively to the whistleblowing disclosure or taken action against Mr Latimer because of it.

Findings of fact

Mr Latimer's employment history

15. Mr Latimer worked as a MET Technician. MET stands for Mechanical, Electrical, and Trim and the role is involved with repairing motor vehicles. He worked for a company called Artis Accident Repair Ltd ("Artis") from January to July of 2021. In July 2021, he went to work for another company called BMR Automotive Ltd ("BMR"). He followed two colleagues from Artis, who had previously also gone to BMR. Their names were Mr James Sharr and Mr Matt Alsopp. On 23 August 2022, Mr Latimer came back to work for Artis again.

16. At the end of 2022, the Respondent, Steer Automotive Group, acquired Artis and Mr Latimer's employment transferred to Steer under the TUPE regulations on 5 January 2023.

Mr Latimer's whistleblowing disclosures

17. Meanwhile, in or around October 2022, Mr Latimer made his first whistleblowing disclosure to Mr Doyle. He told Mr Doyle that colleagues were spraying primer paint in an open environment in the workshop, instead of in an enclosed space called "the oven" which was intended to protect employees from the fumes. Mr Latimer said this was causing him to suffer from headaches. It was implicit that he was raising a health and safety concern. Mr Doyle said he had not seen this happening, and he would remind all technicians on site that all priming had to be completed in the oven. Mr Latimer accepted in cross-examination that Mr Doyle may have given that reminder, and that it was outside his knowledge whether it had happened.
18. However, the issue with primer spraying in the workshop continued to occur. Mr Latimer provided to the Tribunal photographs he had taken of colleagues doing this, dated up to May and June 2023. He says Mr Doyle was aware of his continuing concern because Mr Doyle used to ask him what he was doing when he stood outside the building to avoid the fumes. When giving evidence, Mr Latimer further stated that a blind eye was turned to spraying primer in the workshop because this was quicker than using the oven and therefore helped with hitting targets.
19. On 15 December 2022, Mr Latimer decided that as his conversation with Mr Doyle had not resolved the primer spraying issue, he would contact Mr Smith about it. He wrote to Mr Smith by WhatsApp:
- "Hi mate just spoke to Jamie.. I just voiced my opinion as I never suffer from headache unless they primer inside the workshop and Jamie told us to keep the door open which have no problem with to be honest just the other guys felling the cold understandable as its -4.. Not one to moan really just get on with it but now have a banger of a headache... Could the company think about getting a small primer Booth of some kind maybe... Just a thought like Thurrock have maybe....."**
20. Mr Smith replied to Mr Latimer the following day:
- "Hi Stewart, sorry I didn't come back to you on this the other day. know you're only one for constructive comments [thumbs up emoji] I hope there has been some positive action and it sounds like good idea re the primer booth."**
21. Mr Smith spoke to Mr Doyle at this time about the primer spraying issue and Mr Doyle told him that he had never seen anyone priming inside the workshop. Mr Doyle also told Mr Smith that he had already spoken to the technicians about it following Mr Latimer previously raising concerns to him, but that he would speak to them again. Mr Smith concluded that the issue would be resolved by the technicians using the oven for primer spraying and therefore did not take any further steps to follow up on Mr Latimer's suggestion about getting a small primer booth.
22. Mr Smith and Mr Latimer had a further verbal conversation about the primer spraying issue in January 2023. WhatsApp messages between them referred to arranging to speak on 17 January 2023. Mr Latimer remembered that in fact the

meeting was delayed after that date, and Mr Smith could not remember the exact date it occurred. In any event, the Respondent accepted that in this further conversation Mr Latimer raised his health and safety concern again and this amounted to a third protected disclosure.

23. Mr Smith was not angry or annoyed with Mr Latimer for raising the issue. As he said in the WhatsApp message quoted above, he thought it was a constructive thing for Mr Latimer to have done. Mr Latimer said in evidence said he also thought that Mr Smith's answer to him at the time was constructive and he did not think that Mr Smith had been "*rubbed up the wrong way*" by his disclosure.

Deterioration in the working relationship between Mr Doyle and Mr Latimer

24. However, there was a deterioration in Mr Doyle's working relationship with Mr Latimer. I made this finding based on both Mr Latimer's evidence and Mr Smith's evidence.
25. Mr Latimer's evidence was that after he went to Mr Smith about the primer spraying issue, by which he was going above Mr Doyle's head, Mr Doyle began ignoring him in the workplace. For example, Mr Doyle would say good morning to everyone else and not to him. Mr Doyle also allocated him tasks that resulted in him working by himself. Mr Latimer spoke to the Area Manager, Mr Steve Murray, about this, and asked Mr Murray to convene a meeting between him and Mr Doyle to clear the air. Mr Murray called Mr Doyle into a meeting, with Mr Latimer. During this meeting, Mr Doyle alleged that Mr Latimer had called him a name. Mr Latimer said if that was the case he apologised, but Mr Doyle refused to accept his apology and became aggressive.
26. This account from Mr Latimer was partially corroborated by Mr Smith. Mr Smith said that Mr Murray spoke to him about this meeting after it had taken place. Mr Murray told Mr Smith that Mr Latimer had been trying to build bridges, but that Mr Doyle had been standoffish. Mr Smith also recalled having a separate, informal meeting between himself, Mr Latimer and Mr Doyle in an attempt to improve working practices and achieve a harmonious working environment. There were no minutes of either meeting and neither Mr Smith nor Mr Latimer could remember the dates, but I accepted that the meetings happened and that the reason they happened was the poor working relationship between Mr Doyle and Mr Latimer.
27. In March 2023, Mr Latimer's former colleagues from BMR, Mr Sharr and Mr Alsopp, also rejoined Steer. At around the same time, Mr Latimer told Mr Doyle that the reason he had moved back from BMR was because he did not see eye-to-eye with another employee at BMR, a panel technician called Mr Jagjeet Singh Diosee. Mr Latimer mentioned this because Mr Doyle had asked him how he felt about Mr Sharr and Mr Alsopp joining Steer, which Mr Latimer was happy about. This was the timeframe given Mr Latimer's written statement, which I accepted was correct on this point. Mr Doyle's statement narrated the events in a slightly different order.
28. In or around early May 2023, Mr Diosee also applied to work at Steer and Mr Doyle invited him for an interview. On finding out that Mr Diosee was coming in for an interview, Mr Latimer spoke to Mr Smith about his concerns regarding Mr Diosee getting a job at Steer, given that the two of them had not got on at

BMR. Mr Doyle conducted the interview and offered the job to Mr Diosee, knowing that there had previously been a poor working relationship between him and Mr Latimer at BMR. Mr Diosee commenced work for the Respondent on 16 May 2023. Mr Smith met with Mr Latimer again after Mr Diosee started, and also spoke to Mr Diosee. They both agreed that they would try to put the past behind them.

29. However, Mr Doyle having taken the decision to employee Mr Diosee did not help the working relationship between Mr Latimer and Mr Doyle. Mr Latimer continued to be very unhappy at work. On 26 May 2023, he visited his GP who signed him off work for "*work-related and other stress*" until 14 June 2023. Mr Latimer worked until the end of the week and then went on sick leave from 5 to 14 June. He sent a copy of the GP fit note to Mr Smith by WhatsApp.
30. After Mr Latimer's return to work, on 16 June 2023 he had a further meeting with Mr Smith. During this meeting, Mr Latimer he confided in Mr Smith about workplace stress and stress in his personal life. Mr Smith confirmed in his oral evidence that this conversation included Mr Latimer commenting on the way Mr Doyle was treating him in the workplace.

Events of 5 June 2023

31. On 5 June 2023, there was a verbal altercation between Mr Latimer and Mr Diosee during the morning and serious physical altercation in the afternoon. I did not need to make findings about what actually happened between Mr Latimer and Mr Diosee, because the issue for the Tribunal concerned the Respondent's reasons for dismissal. Therefore my focus was on what the Respondent knew about these incidents.
32. From the perspective of the Respondent's managers, the way the events of 5 June 2023 unfolded was as follows. On the afternoon of 5 June 2023, Mr Latimer approached Mr Doyle and told him that there had been an incident between himself and Mr Diosee. Mr Doyle's statement says that Mr Latimer looked dishevelled and his T-shirt was ripped. Mr Latimer said that Mr Diosee had attacked him, which led to them having "*a bit of a barney*" in the toilets. At approximately the same time, Mr Diosee came into the workshop bleeding from a wound to his head. He said that Mr Latimer had attacked him. His colleagues called an ambulance and paramedics arrived and attended to him.
33. Mr Doyle called Mr Smith and said that Mr Latimer had hit Mr Diosee and Mr Diosee was injured. Mr Smith told Mr Doyle to suspend Mr Latimer on full pay pending an investigation. He did so because he understood from what Mr Doyle had told him that Mr Latimer was the aggressor in the altercation. Mr Doyle informed Mr Latimer that he was suspended. Meanwhile, Mr Smith made his way to the Gray's site.
34. Shortly afterwards, the police arrived, having been called by the paramedics. The police asked to see CCTV footage of the workshop, which was obtained by the Respondent's Head of IT. Mr Smith also watched the CCTV footage at this time. He took the view that the CCTV footage showed Mr Latimer taking a hammer from his toolbox and following Mr Diosee into the toilets before Mr Diosee exited with blood running down his face. Mr Smith believed this indicated that Mr Latimer was the aggressor in the situation.

35. Mr Latimer disputed that this was a fair interpretation of the CCTV footage. I accepted that whether or not it was the correct interpretation, it was the genuine impression formed by Mr Smith at the time. I reached this conclusion in part because I accepted that Mr Smith gave honest evidence about his impression of the CCTV evidence, and in part because having watched the CCTV footage I considered it was one possible and reasonable interpretation that could be drawn from the footage.
36. CCTV footage taken from two cameras recording in workshop from different angles showed that when Mr Diosee left to go to the toilets, Mr Latimer was at the other end of the workshop. There were several vehicles in between them. Mr Latimer was looking in the general direction of Mr Diosee. There was a line of sight across the workshop that would have allowed Mr Latimer to see Mr Diosee move towards the exit leading to the foyer where the toilets were, although it was not clear from the footage that he necessarily had watched Mr Diosee doing so. The workshop footage showed Mr Latimer then took a hammer from his toolbox and, holding it in his right-hand pocket, walked out of the workshop by a different door. All agreed that door led out to the same foyer and toilets.
37. CCTV in the foyer showed Mr Latimer going into the toilet door with the hammer in his pocket, and leaving soon afterwards with the neck of his T-shirt pulled out of shape. One discrepancy in the evidence was that Mr Diosee, when he was later interviewed, said he exited the toilet first, and Mr Latimer agreed that is what happened, but the CCTV footage in the foyer did not show Mr Diosee coming out of the toilet. Mr Latimer told me that a motion-sensor light coming on in the foyer showed where part of the footage was missing. However, on reviewing the footage carefully I could not identify such a glitch.
38. Further footage from the two cameras in the workshop showed Mr Diosee returning to the workshop with a head wound, and Mr Latimer returning by a different door and placing the hammer back in his toolbox before taking blue roll and wiping the hammer with it.
39. While the available footage did not show what happened between Mr Latimer and Mr Diosee inside the toilet, it did show enough to provide a basis for Mr Smith's belief that Mr Latimer taking the hammer with him to the toilet indicated that he intended to hurt Mr Diosee.

Disciplinary process

40. At Mr Smith's direction, Ms Lea Stevens, People Operations Manager, wrote a letter to Mr Latimer that day (5 June 2023) confirming his suspension and inviting him to an investigation meeting.
41. Later that afternoon, Mr Smith directed Ms Stevens to write a further letter escalating the matter straight to a disciplinary hearing. The second letter was sent to Mr Latimer on the following day, 6 July 2023. That letter said:

"Further to my Letter dated 05 July 2023 confirming your suspension from work following the alleged assault on your colleague, due to the seriousness of this matter the Police are now involved in investigations. As a consequence, the Company has decided to take this matter straight to a formal disciplinary meeting. Evidence and statements supplied, including CCTV footage has been reviewed

and with the Police investigation underway, we have adequate evidence to move forward in the Company Disciplinary Process.”

42. The disciplinary hearing took place on 10 July 2023. Mr Smith conducted the meeting and Ms Stevens took notes. Mr Latimer also asked to record the meeting and I have listened to the partial recording.
43. During the meeting, Mr Latimer said that he thought Mr Diosee ought to have been suspended. He also asked Mr Smith to review the CCTV of the workshop from earlier in the day when he said an incident had occurred where Mr Diosee had acted aggressively towards him and threatened him. Mr Smith said he would check the earlier CCTV.
44. Mr Smith put to Mr Latimer his interpretation of the CCTV footage which I have described at paragraph 36 above. The note of this part of the meeting says:

“seen cctv clear, we have jag walking down workshop, cctv footage shows sitting on chair, go to take hammer out of toolbox, wheeled self over to the bathroom entrance, seen jags walk in down side alley and followed him into the toilet”.
45. Mr Latimer accepted that he took a hammer to the toilet with him but denied knowing that Mr Diosee was in the bathroom at the time. He said that when he went into the bathroom, Mr Diosee had lunged at him, and there was a scuffle. He said that Mr Diosee had gone to punch him, he went to punch Mr Diosee back and they “*spun around*”.
46. Mr Smith then put to Mr Latimer what the CCTV showed after the incident when Mr Latimer came back into the workshop with his shirt dishevelled (described at paragraph 38 above). Mr Latimer agreed that after he came back in, he wiped down the hammer he had been carrying with blue roll, but said that there had been blood on his hands rather than on the hammer.
47. During the disciplinary hearing, Mr Latimer said that he did not feel he would get a fair outcome and that Mr Doyle would not be on his side because he held a grudge against him. He noted that he had had spoken to Mr Smith in the past about this and that “*because I moan about things obviously I make things difficult for him because I moan*”. Mr Smith replied that Mr Latimer should not be treated badly because of constructive criticism.
48. Mr Latimer reminded Mr Smith that he had spoken to him on a couple of occasions about painting in the workshop, and Mr Smith agreed that he had. Mr Latimer said it was still happening and Mr Smith said it should be dealt with. Mr Latimer told Mr Smith that he had taken pictures of colleagues doing it and that it was giving him a headache. He said another colleague had also spoken to Mr Doyle about it, and it was happening all the time. He felt that if he moaned, he was in the wrong. Mr Smith replied that he did not want Mr Latimer to feel he was at any disadvantage because of this. Mr Latimer reiterated that Mr Doyle had been treating him unfairly. He felt that management would support Mr Diosee not him and that he was seen as a troublemaker. Mr Latimer also said he felt that Mr Doyle “*only employed him (i.e., Mr Diosee) to wind me up*”.
49. However, Mr Latimer also stated that he did not want to go “*off track from what’s happened here and put the blame anywhere else*”.

50. On 11 July 2023, Mr Smith interviewed Mr Diosee. Mr Diosee said that the verbal altercation in the morning had been started by Mr Latimer, who was staring at him and mumbling, causing Mr Diosee to go over and ask him what his problem was. He said that later that afternoon, he was in the toilets standing at the urinal when he heard the door shut behind him and felt what he thought was a kick to his knee. He went down holding his knee and someone hit him on the head. He said he managed to get away by pulling Mr Latimer's shirt and left the toilets before Mr Latimer.
51. Mr Smith also interviewed two colleagues who had been present in the workshop, Mr John Sturge and Mr Alsopp. Mr Sturge related that Mr Latimer had said after the incident that Mr Diosee had attacked him. Mr Alsopp said that Mr Diosee had come into the workshop screaming and bleeding and saying that Mr Latimer had jumped him.
52. Mr Smith obtained CCTV footage of the verbal altercation that morning. He formed the view that it showed Mr Latimer goading Mr Diosee and Mr Diosee reacting, but then removing himself from the situation while Mr Latimer continued to shout at him. He did not consider that this footage altered the picture of the afternoon's events.
53. Again, whether or not Mr Smith's interpretation of the CCTV footage was correct, I accepted that it was his genuinely held view and also, having watched the footage in evidence, a view that was reasonably open to him to take.
54. Mr Smith reconvened the disciplinary hearing on 17 July 2023 to discuss the earlier CCTV footage with Mr Latimer. Having done so, he took a break to consider his decision. After the break, he told Mr Latimer that he had reached the conclusion on the balance of probabilities that Mr Latimer had made a premeditated attack on Mr Diosee. Mr Smith said that this was deemed gross misconduct and Mr Latimer's employment would be terminated. Mr Latimer responded that the decision was one-sided and that if he was fired, Mr Diosee should be as well.

Appeal process

55. On 31 July 2023, Mr Latimer wrote an email to Ms Stevens appealing the dismissal decision on the basis that it was unfair and one-sided and that the statements taken had been unfair, misleading and one-sided.
56. Mr Whitaker was allocated to conduct the appeal. He watched the CCTV footage and reviewed the interview notes taken at the disciplinary stage.
57. Mr Whitaker met with Mr Latimer on 14 September 2023. At this appeal meeting, Mr Latimer explained that he felt the dismissal was unfair because there were two parties involved but only he had been dismissed. He also argued that there was no evidence to support the conclusion that he had hit Mr Diosee with the hammer. Later in the meeting he said:

"Just because I went in there with a hammer didn't mean I hit him with a hammer. There's handles in the toilet, basins he could have hit his head on anything. We were both fighting, both spinning around. I had injuries and bruises to my neck. I don't know what he has hit his leg or head on, He could have hit his head on the

tap or my watch. I could also have placed the hammer on the tyre machine and then picked it back up when I came out of the toilet.”

58. Mr Latimer also told Mr Whitaker that Mr Doyle did not like him and that he believed Mr Doyle had hired Mr Diosee “*to stir the pot*”. He accepted, in response to a question from Mr Whitaker, that Mr Doyle had not given a statement nor been involved in the disciplinary process.
59. Mr Latimer did not allege at the internal appeal stage that the reason for the dismissal was his earlier whistleblowing disclosures. Mr Whitaker himself had no personal knowledge about Mr Latimer raising health and safety concerns about spraying primer in the workshop (although he did have the notes of the disciplinary meeting where the issue had been alluded to).
60. After meeting with Mr Latimer, Mr Whitaker decided that he should also interview any witnesses who saw the verbal altercation between Mr Latimer and Mr Diosee during the morning of 5 June 2023. He interviewed Ms Chelsea Rackham, who said that both Mr Latimer and Mr Diosee had said “*what are you looking at*” and that it was both sides winding each other up. He also interviewed Mr Sharr, who said he could not really hear what was said but that both Mr Latimer and Mr Diosee were telling each other to “*fuck off*”.
61. Mr Whitaker also interviewed Mr Smith about his decision to dismiss Mr Latimer. Mr Smith said (as recorded in the notes of the interview):

“In terms of how I can to the decision following the disciplinary, it was on the balance of probabilities, I found that Stewart was guilty with the disciplinary charge. I reviewed the CCTV footage. During the disciplinary, Stewart asked that we review an incident that had happened earlier in the day. We adjourned the disciplinary, found the CCTV footage and reconvened the disciplinary hearing. From my view of the footage, Stewart wheeled down on his chair from his bay, to the drinks fridge. It appears that he is then goading Jags, words were obviously then exchanged between the two of them. It looks to me as though Jags then walks away from the incident. For Stewart to say that he felt genuinely frightened and in danger following the incident, I cannot agree with. If he did feel intimidated, where did he pick up a hammer and follow Jags into the toilet. On viewing the CCTV, it appears clear to me that Stewart saw Jags go to the toilet, he then gets something out of his toolbox that appears to be a hammer, he conceals it and then follow Jags into the toilet. The CCTV then shows Stewart come back out of the toilet, wipe down whatever he had and place it back in his tool box. Having reviewed all the evidence and CCTV, to me it was premeditated by Stewart to follow Jags into the toilet, with a weapon and attack Jags. That's why I came to the decision to terminate Stewart's employment. Jags to me looks to be the victim here, he has not committed a Gross Misconduct here and Stewart, that it why Stewart's employment has been terminated and not Jags.”

62. Mr Whitaker made his decision and sent Mr Latimer the outcome by letter dated 22 September 2023. He upheld the decision to dismiss for gross misconduct, saying in the letter that:

“Having reviewed the CCTV evidence, statements taken at the original disciplinary hearing and the investigation at the appeal stage, I feel that the decision reached was a perfectly fair and reasonable outcome to have come to”.

Conclusions

63. The person who decided to dismiss Mr Latimer was Mr Smith. Mr Latimer did not suggest that anyone else was involved in that decision and I did not see any evidence to suggest that anyone else was involved.
64. In particular, I considered whether Mr Doyle had any influence over the dismissal decision. Mr Doyle did influence Mr Smith's initial decision to suspend Mr Latimer because he told Mr Smith that Mr Latimer had hit Mr Diosee. However, after that point Mr Doyle did not play any further role in the disciplinary process. I concluded that Mr Smith's decision to dismiss was not influenced by Mr Doyle.
65. Mr Smith was well aware of Mr Latimer's whistleblowing disclosures. However, I found that Mr Smith did not feel negatively towards Mr Latimer for making the disclosures. He genuinely accepted that Mr Latimer was being constructive by raising his health and safety concerns.
66. Mr Smith based his decision to dismiss Mr Latimer primarily on the CCTV footage of events before and after the altercation in the toilet. He also took into account the his interviews with Mr Latimer and Mr Diosee. He formed the belief from the CCTV and witness evidence that Mr Latimer had deliberately taken a hammer to the toilet and assaulted Mr Diosee. I did not have to make any finding as to whether Mr Smith's conclusion was correct, but I did find that was his genuine reason for dismissing Mr Latimer.
67. I concluded that Mr Latimer's whistleblowing disclosures did not form any part of the reason why Mr Smith decided to dismiss him.
68. Mr Whitaker, who upheld the dismissal on appeal, had no personal knowledge of the whistleblowing disclosures and was not influenced by them either.
69. It followed that the complaint of automatically unfair dismissal was not well-founded and the claim was dismissed.

Employment Judge Barrett
Dated: 2 February 2026