



EMPLOYMENT TRIBUNALS

Claimant: Mrs. M. San Juan Romero

Respondent: Elite Embroidery Limited

Heard at: The Newcastle Employment Tribunal

On 11 to 13 March 2026

Before: Employment Judge T.R. Smith, sitting alone

Representation

Claimant: Mr. P. Dempster (lay representative)

Respondent: Mr. P. Morgan (counsel)

The tribunal was assisted by the attendance of an interpreter fluent in Spanish.

JUDGMENT

The claimant's claim of unfair dismissal is not well founded and is dismissed.

Written reasons supplied pursuant to a request by the claimant

1. Definitions

1.1. The ACAS code. The ACAS Guide : Discipline and grievances at work (2015).

1.2. ERA 96. The Employment Rights Act 1996.

1.3. SOSR. Some other substantial reason.

1.4. TULCRA 92. The Trade Union and Labour Relations (Consolidation) Act 1992.

2. The issues

2.1. At the start of the hearing the parties agreed the issues the tribunal had to determine, which are set out below.

2.2. What was the reason or principal reason for the claimant's dismissal? Can the respondent establish on the balance of probabilities that it was for some other substantial reason of a kind such as to justify the dismissal of the claimant holding the position that the claimant held?

2.3. If so, did the respondent act reasonably or unreasonably in treating it as a sufficient reason to dismiss the claimant?

2.4. The claimant relied upon the following specific allegations of unfairness: –

2.4.1. No investigation took place and no witnesses were interviewed.

2.4.2. The claimant was not given detailed particulars of the allegations against her until the disciplinary hearing.

2.4.3. The respondent should not have relied upon the claimant's daughter to act as an interpreter.

2.4.4. Mr and Mrs Taylor acted as complainants, investigators, decision-makers and appeal officers.

2.4.5. The questioning at the disciplinary hearing showed a premeditated decision.

2.4.6. The sanction imposed was unreasonable. The respondent could no longer support the assertion that it could no longer employ the claimant in order to protect a Mr Bill Taylor, when, by the date of dismissal he had died. (The claimant accepted the latter point was factually incorrect and no longer pursued it)

2.4.7. The respondent should have considered an alternative penalty such as mediation or a lesser sanction.

2.4.8. Did the respondent prove that if it had adopted a fair procedure the claimant would have been fairly dismissed in any event, and/or to what extent and when? ("the Polkey issue")

2.4.9. If the dismissal was unfair, did the claimant contribute to the dismissal by culpable conduct? This required the respondent to prove, on the balance of probabilities, that the claimant actually committed the misconduct alleged? ("the Contribution issue")

2.5. It was agreed at the start of the hearing that the tribunal would determine liability, contribution and Polkey only, and then, if necessary, proceed to remedy

2.6. The tribunal at the start of the hearing canvassed each party's position as regards the ACAS code and the application, if any, of section 207A of TULCRA. 92. The claimant contended it applied but Mr Dempster was unable to articulate any ground that fell within the code or identify any specific breach of the code. In the circumstances the tribunal made no findings. The position of Mr Morgan was that the respondent did not rely on the code and indeed contended it was not applicable to an SOSR. The tribunal considered the submission of Mr Morgan was arguable, see the obiter comments in **Rentplus UK Ltd -v- Coulson [2022] EAT 81**, but given he did not rely on the code the point did not require determination

3. The Evidence

3.1. The tribunal had before a main bundle which consisted of 150 pages and a supplemental bundle that totalled 52 pages. A reference to a number in brackets is a reference to the main bundle unless otherwise stated.

3.2. The tribunal had the following statements placed before it and heard evidence from:-

3.2.1. A statement of the claimant dated 10 October 2025.

3.2.2. A statement of Mr Paul Dempster dated 30 September 2025. (for the claimant)

3.2.3. A statement of Mr Antony Robson dated 30 September 2025 (for the claimant, although he was not called ,and his statement was not agreed and was therefore given limited weight)

3.2.4. A statement of Mr Antony Lee Taylor dated 11 September 2025.

3.2.5. A statement of Mrs Lianne Taylor dated 11 September 2025.

3.2.6. A statement of Mr George Arthur Taylor dated 11 September 2025.

3.2.7.A statement of Ms Natasha Gardiner dated 11 September 2025.

3.2.8.A statement of Ms Ewelina Zadora dated 11 September 2025

3.3. There were also a number of further statements lodged by the respondent which Mr Dempster agreed and were taken as read without the need to call the witness namely;-

3.3.1.A statement of Mr Giuseppe Avolio dated 11 September 2025

3.3.2.A statement Mr Nigel Ridley dated 11 September 2025

3.3.3.A statement of Mr Stephen Thirlwell dated 11 September 2025

3.3.4.A statement of Mr Kevin Taylor dated 11 September 2025

3.3.5.A statement of Mr James Williamson dated 11 September 2025

3.4. At the start of the hearing an issue arose as to the admissibility of the claimant's statement given it was filed late together with two further statements on behalf of the claimant namely a statement of Mr Anthony Robson and Mr Paul Dempster. For the oral reasons the tribunal gave all the statements were admitted in evidence. The tribunal was alive to the fact that the claimant had not complied with tribunal orders as to simultaneous exchange of witness statements. The claimant and her witnesses therefore had the opportunity of reading the respondent statements prior to drafting their own. The tribunal have factored this in to the weight it gave to that evidence.

3.5. The tribunal reminded the parties it was not determining whether the allegations were true. Much of the respondent's evidence was irrelevant.

3.6. The tribunal has not sought to resolve each and every factual dispute, and there were many, only those that were relevant to the agreed issues. In particular there were a number of assertions made in the statements of Mr Dempster and Mr Robson that were never put to the respondent's witnesses and therefore those matters have not formed part of the tribunal's deliberations.

4.Credibility

4.1. The tribunal should say a little about the credibility of the three principal witnesses Mr and Mrs Lee Taylor and the claimant.

4.2.The tribunal found Mr and Mrs Lee Taylor to be credible witnesses. They told the tribunal what they honestly perceived. They did not try and avoid any questions and where appropriate made proper concessions.

4.3.Conversely the tribunal did not find the claimant to be a wholly credible or reliable historian. One example illustrated the reason for the tribunal's conclusion.

4.4.In questioning the claimant said she was dismissed before any meeting. The tribunal outlined the apparent timeline namely an invitation to a meeting on 01 October, a meeting on 04 October and the subsequent letter of dismissal on 09 October. To jog the claimant's memory the tribunal mentioned that amongst those present at the meeting on 04 October was Mr Dempster and the respondent's solicitor. She was adamant she was dismissed on 01 October despite the oral and written evidence to the contrary.

4.5.She told the tribunal she was given her dismissal letter at the end of her shift at work. Again that cannot have been true because the claimant had only been suspended from 01 October.

4.6.The tribunal went through the chronology with the claimant a further two times in case there was any misunderstanding . She remained adamant that she was dismissed before any meeting. The tribunal checked with her were no difficulties between herself and the interpreter and she confirmed that she understood the interpreter perfectly.

4.7.The claimant's assertion was mistaken. She was not dismissed prior to any process being undertaken. She was not dismissed at the end of her shift at work.

4.8.Whilst the tribunal reminded itself that a witness might be incredible on one matter it did not follow that they were not credible on another. However given the credibility issue it treated the claimant's evidence with some concern especially in respect of those matters that were challenged.

4.9.Having dealt with the principal witnesses there was one further observation on credibility that the tribunal should make.

4.10.Mr Dempster described Mr Lee Taylor as a "*manchild*" who was "*quick to spit his dummy out*" and suffered from an extreme case of "*only child syndrome*".He said "*as a manchild Mr Lee Taylor chose to abandon his father at a time when Mr Bill*

Taylor needed his son the most". The tribunal found no such evidence for such a serious allegation and indeed the evidence before it demonstrated exactly the opposite, that he and his wife were extremely concerned about their father and had a long, strong and good relationship prior to the events that gave rise to the tribunal claim. The misplaced, strongly held view of Mr Dempster, adversely impacted on his credibility in the eyes of the tribunal.

Background

5.Family connections

5.1.Mr Anthony Taylor, known as Lee Taylor is married to Mrs Lianne Taylor and together they are the directors and, in reality, owners of the respondent .

5.2.Mr George Arthur Taylor, known as Mr Bill Taylor is the father of Mr Lee Taylor. Prior to retirement he was a successful business man and is comfortable financially. Highly relevant to these proceedings is that at the material time he was aged 84 and prior to the events that give rise to the respondent's concerns had just suffered the loss of his wife with whom he'd lived with for some 64 years . It was Mr Bill Taylor's wife who organised the finances and ran the household for her husband.

5.3.The claimant, referred to in the proceedings as Maria, has two daughters. The first is Kenia and the second is Katuska. Katuska was known to the respondent as Veronica and that name was used in the proceedings so the tribunal has used the same identification for clarity.

5.4.The claimant shared a house with her daughter Veronica

5.5.Kenia has never worked for the respondent.

5.6.Veronica was employed by the respondent but was dismissed for some other substantial reason, based on grounds that mirrored those that were levelled against the claimant.

5.7.Whilst Veronica did present a claim to be employment tribunal, including a complaint of unfair dismissal and race discrimination, those claims were either struck out or withdrawn.

5.8.Veronica is married to Mr Antony Robson.

5.9. Mr Dempster was Kenia's accountant and described himself as not only a professional contact but also a close personal friend.

5.10. The claimant is of Cuban heritage and aged 59 at dismissal.

6. The business and the claim.

6.1. Mr and Mrs Lee Taylor operate the respondent which employed approximately 37 staff at the time of the incident set out below.

6.2. Mr Lee Taylor is a hands on manager and had daily contact with the staff. Even though the claimant does not speak good English she agreed she had regular contact with Mr Lee Taylor and they could make themselves understood and got on well. The size of the business was such that for its efficient operation both staff and management were required to work closely together.

6.3. The claimant was employed by the respondent as a Packer/embroidery operative.

6.4. She was regarded as a good worker with a clean disciplinary record. When there had been a concern raised by the claimant as regards what she perceived to be bullying the respondent dealt with it promptly and to the claimant satisfaction. Thus prior to the matters that give rise to this tribunal claim there was a good relationship between both the respondent and the claimant.

6.5. The claimant normally utilised her daughter Veronica as a translator whilst working on the shop floor. In her absence a Mr Diego Valente, another employee of the respondent acted as a translator.

6.6. The claimant's employment began on 18 May 2022 with dismissal taking place on 09 October 2024.

6.7. Initially the claimant brought complaints of both unfair dismissal and discrimination on the grounds of race. However the claimant withdrew the latter claim, and judgement dismissing that claim, was issued on 15 May 2025.

7. The relationship

7.1. The tribunal has been careful to make findings of fact limited to those matters known to the decision-makers prior to the dismissal of the claimant. Many of the

statements contained information that was irrelevant to the fairness of otherwise of the claimant's dismissal.

7.2. Mr Bill Taylor's wife sadly died on 09 April 2024 after a lengthy illness and period of hospitalisation. The death had a profound effect on Mr Bill Taylor.

7.3. Prior to her death, Mrs Taylor assumed responsibility for the financial affairs of her mother and father-in-law and was well acquainted with the meticulous systems adopted by her mother-in-law.

7.4. The tribunal is satisfied on the evidence before it that, certainly up until June 2024, the family were close with frequent contact. Mr Bill Taylor liked to call into the respondent premises to see his son and daughter-in-law but also many of the workers who he had known for years. He also enjoyed spending time with his four grandchildren at his son and daughter in laws house.

7.5. In June 2024 Mr Bill Taylor told his son that the claimant and Veronica had asked him to go to a family birthday party for Veronica and he wanted a lift. Both were relatively recent employees (mid 2022 and late 2023). Only two other members of the respondent company were invited. Mr and Mrs Taylor thought it was a strange invitation given the age difference and the fact Mr Bill Taylor was not an employee. Prior to June 2024 there was no evidence of any particular connection or friendship between Mr Bill Taylor, the claimant and Veronica. Mr and Mrs Taylor thought the invitation somewhat unusual and the tribunal was satisfied that they were entitled, in the particular circumstances, to find the invitation somewhat surprising.

7.6. A dispute arose as to what occurred at the party. The claimant said that Mr Bill Taylor was attracted to Kenia and began, following the party, to pursue a romantic relationship with her and tried to seduce her and this continued up until the claimant's dismissal.

7.7. Kenia was aged approximately 41, more than half the age of Mr Bill Taylor and was in a relationship with Mr William Santy. The tribunal rejected the suggestion of Mr Bill Taylor as some form of Lothario. With the age, the fact he was still mourning his wife's death, cultural differences and Kenia's personal circumstances this was improbable. What was more improbable was if he made unwelcome advances nothing was done about it by the family and the family continued to frequently visit his home despite this alleged behaviour.

7.8. The respondent's position was that Kenia gave Mr Bill Taylor her telephone number and told him not to tell anyone else. The tribunal found that more plausible given there was a theme, later evident, of secrecy.

7.9. After the party Mr Bill Taylor started to change.

7.10. Mr Lee Taylor and his wife noticed Mr Bill Taylor was not visiting the grandchildren as much. He was not returning telephone calls which was unusual. More significantly long-standing friends and neighbours said a group of people were visiting Mr Bill Taylor's house regularly. Those people were the claimant and her family.

7.11. Whilst Mr Bill Taylor would still attend the respondent's premises he now spent all his time with the claimant and Veronica. This was noted by staff and remarked upon. Long standing staff he had known for years were ignored. Staff reported the claimant and Veronica showered Mr Bill Taylor with compliments and invited him for meals. When concerns by staff were raised with the claimant and Veronica they were told not to be nosy. This was not challenged. The tribunal noted that generally staff are reluctant to report matters that do not directly concern them. The fact that staff directly approached the claimant and, having been brushed off, then spoke to Mr Lee Taylor, led the tribunal to find the behaviour occurred on a number of occasions and it was out of the ordinary and concerning to those who witnessed it.

7.12. In about the autumn of 2024 Mr Taylor received reports of the claimant, Veronica, Veronica's husband, Mr Robson, Kenia and Mr Santy frequently being at Mr Bill Taylor's house, often late at night.

7.13. In mid-August Mr Bill Taylor said that the claimant and Veronica were cleaning his house although he hadn't asked them to do it.

7.14. The tribunal did not have an exact date but around this point in time there was a discussion between Ms Gardiner (the respondent's operations manager), the claimant and Veronica about the way they were behaving towards Mr Bill Taylor. They said they had a private life with Mr Bill Taylor and it had nothing to do with work and shouldn't affect it and their private life with him was their own business and this was not to be discussed with Mr Lee Taylor.

7.15. Ms Gardiner was uncomfortable with this and spoke to Mr Lee Taylor and told him what had occurred, the concerns of staff and that when Mr Bill Taylor came into

the factory they (the claimant and Veronica) would both embrace him in front of others.

7.16. In early September Mr Bill Taylor told his daughter-in-law, who had called round, he'd taken Veronica to get some furniture at a discount from someone he knew and he was doing the same for Kenia and he had to rush. Mr Bill Taylor received a phone call in his daughter-in-law's presence and subsequently said that Kenia had seen Mrs Taylor's car outside and therefore refused to come in. The tribunal found as a fact that was surprising behaviour.

7.17. Mrs Taylor called in to see Mr Bill Taylor on 19 September 2024 to sort out some tax effects and found the paperwork concerning his finances had been disturbed. Mr Bill Taylor was adamant he never touched the paper work and that was credible given the background history. Mr and Mrs Taylor concluded that it was most likely the claimant and her family who had rifled through the papers. As it transpired that assumption was likely correct as confidential paperwork (including correspondence from the Office of the Public Guardian) was produced to the tribunal which Mr Bill Taylor said came from his home.

7.18. On 21 September Mrs Taylor called to see Mr Bill Taylor and noticed that a car belonging to Kenia was parked outside. Initially Mr Bill Taylor was reluctant to answer the door but then admitted that Kenia was in the bathroom and stayed the night because she drank too much. Mrs Taylor suggested that a taxi could have been summoned.

7.19. When leaving Kenia said to Mrs Taylor "we [tribunal emphasise] *look after him now*". Mrs Taylor explained that his family looked after him to which the response was "*no we look after Bill*".

7.20. The tribunal noted that Mr Dempster used a not dissimilar phrase when he said "*Mr Lee Taylor has also falsely accused our group of trying to take advantage of Mr Bill Taylor...*". In a question he put to Mr Lee Taylor he said "*Our feelings didn't seem to care as evidenced by the hearing notes*". The tribunal found that this was not simply a case of Mr Bill Taylor having a relationship with Kenia, but it extended to a group of which the claimant was at the centre.

7.21. Mrs Taylor spent some time with Mr Bill Taylor to try and understand the position and he said that the family (that is the claimant and her family) had been visiting him

frequently and he had been told not to discuss it with anyone and it was to be kept private.

7.22. In early September Mr Bill Taylor approached staff and asked them to prepare some logos. They were told not to tell Mr Lee Taylor. Mr Lee Taylor was informed and Mr Bill Taylor apologised to the member of staff and said the work was for the claimant's grand daughter and he had been pressured to ask.

7.23. It came to Mr and Mrs Taylor's notice in late September that Mr Bill Taylor was getting up early in the morning and transporting the claimant and her grandchildren to and from Byker and the claimant work. He did not drop her outside the respondent's premises but round the corner. This was consistent with the respondent's assertion that Mr Bill Taylor had been told to keep things secret. In cross examination the claimant conceded that Mr Bill Taylor was giving her lifts and parking round the corner from the respondent's premises.

7.24. On 26 September Mr Bill Taylor arrived at respondent premises and CCTV showed him embracing and kissing the claimant.

7.25. At about the same time Mr Bill Taylor's lifelong friend, Jimmy Dixon, came to see Mr Lee Taylor to express his concerns. He told Mr Lee Taylor that his father wanted to get away from "*these people*" which was a reference to the claimant and her family.

7.26. Within 48 hours a holiday was booked for Grande Canaria for a week. When he returned Mr Bill Taylor told his son that the claimant and her family kept on turning up at his door with meals or to see him.

7.27. Mr Bill Taylor had apparently had been taken nightclubbing and Mr Dempster admitted before the tribunal that he had taken Mr Bill Taylor.

7.28. Those were the principal matters that Mr and Mrs Taylor were aware of prior to the claimant's dismissal.

7.29. Whilst the respondent placed before the tribunal evidence of property being removed from Mr Bill Taylor's house and other matters of concern the tribunal discounted that evidence as it occurred post termination and so therefore cannot have formed any part of the reason for dismissal.

8. The internal proceedings

8.1. On 01 October 2024 the claimant was invited, in writing to a meeting (122/123) headed "*Your employment with us*". The letter was signed by Mr Lee Taylor.

8.2. The invitation letter stated as follows, "*I refer to recent events involving your daughter, other members of your family and my recently bereaved, vulnerable 84-year-old father. I believe he is being groomed and exploited by your daughter, Kenia Furones, with your assistance and help from other family members I am further concerned that you, as a family, are seeking to separate my dad from not only my family but other family members as well*"

8.3. It went on to say:-

"With this in mind, I do not believe your continued employment by my company particularly given I would have to continue to work with you, is appropriate or tenable. I am considering terminating your employment for "some other substantial reason"

8.4. The tribunal is satisfied that there were ongoing discussions between Mr and Mrs Lee Taylor and a sharing of information and concerns and it was that pooled information that led to the above invitation.

8.5. The tribunal is satisfied that whilst Mr Lee Taylor expressed a strong provisional view he had not made a final determination of termination and remained open to persuasion. The wording was inelegant but its purpose was to stress to the claimant the seriousness of the situation.

8.6. The claimant was specifically advised that a possible outcome of the meeting was the termination of her employment. She was advised the right of representation.

8.7. Pending the hearing the claimant was suspended on full pay.

8.8. The meeting was originally arranged for 03 October but postponed at the claimant's request until 04 October.

8.9. The respondent understood that the claimant wanted her daughter Veronica to represent her and to act as her interpreter and agreed to that proposal (125). The tribunal considered that was a reasonable assumption on the facts and documents.

9. Meeting 04 October 2024

9.1. The claimant was accompanied by her daughter, Veronica as an interpreter, and Mr Paul Dempster.

9.2. The claimant raised no concern as to her daughter acting as an interpreter. No request was made for an independent interpreter.

9.3. The meeting was chaired by Mrs Lianne Taylor.

9.4. Notice of the meeting were kept. (128/132).

9.5. The meeting lasted for about 45 to 50 minutes.

9.6. The notes were not disputed by the claimant. Whilst Mr Dempster did make reference in his evidence to not recalling a part of the note, such a concern did not appear in his statement. The tribunal found the notes were a reasonable summary of the principal matters discussed. The notes also recorded not only what was said but also the reactions of the claimant including laughter and smiling.

9.7. It was put to the claimant that Mr Bill Taylor was vulnerable and lonely and the claimant and her family had preyed on him and they were trying to develop a friendship with him. This was denied.

9.8. It was put that the claimant that her and her family were involved in Mr Bill Taylor's everyday life with multiple contacts. The claimant said that he (Mr Bill Taylor) was not in her life

9.9. The claimant was asked why the friendship between the claimant her family and Mr Bill Taylor had not been mentioned even to Mr Lee Taylor and Mrs Lianne Taylor and why he was told to keep the relationship secret. She said there was no friendship with Mr Bill Taylor.

9.10. It was then put that Mr Bill Taylor was entertained at the claimant's home and there was an element of socialising with her family and he been told to keep quiet about that relationship. The claimant did not deny that but said she had the same relationship with everybody else in the company. Further questions were put to probe the answer but the claimant was told she did not have to answer that by the representative.

9.11. The claimant was asked why Mr Bill Taylor had been invited to a birthday party and family meals. Her representative told the claimant she did not need to answer that question and she did not.

9.12. It was put to the claimant that she suggested cleaning Mr Bill Taylor's home but told him not to tell anyone else and was that true? She said she didn't know and as the question was probed further her representative told her not to answer.

9.13. When it was put to the claimant that she visited Mr Bill Taylor on a number of occasions and told him to keep the visits secret she simply laughed

9.14. It was put to the claimant when Mr Bill Taylor came to the factory there were whispered conversation between the claimant, Mr Bill Taylor and her daughter and embraces and why was that. Again the claimant's representative told her not to answer the question as it was "*loaded*"

9.15. The claimant was asked why Mr Bill Taylor had been taking Veronica to doctors appointments in working hours. The claimant said she didn't know.

9.16. The claimant was asked why Mr Bill Taylor was required to leave his home at 6.40am to collect the claimant and her grandchild and then to do school runs. The claimant's representative told her not to answer

9.17. It was put to the claimant she got a number of lifts from Mr Bill Taylor but she denied it.. Her representative said that her personal relationship had nothing to do with work.

9.18. The claimant was asked if she thought her and her family's behaviour was fair on Mr Bill Taylor. She said she did not ask "*nothing to anyone*"

9.19. When the claimant was asked why Mr Bill Taylor was dropping the claimant off at work out of sight of the factory she said she didn't know.

9.20. The claimant was asked if she knew that Kenia had hidden in Mr Bill Taylor's bathroom when Mrs Taylor had visited. The claimant said she did not and smiled. She said she was not aware of Kenia saying words to the effect that the family now looked after Mr Bill Taylor.

9.21. The claimant was asked whether it was true that her family had offered to take the claimant to Cuba over Christmas.. The claimant answered in the negative and laughed and smiled.

9.22. It was put that the claimant and her family said to Mr Bill Taylor that people very close to him were not to be trusted. The claimant said she didn't know that but was then told not to answer the question.

9.23. The claimant was invited to add anything that she thought was relevant. She did not.

10. Dismissal

10.1. By letter dated 09 October 2024 (133/134), (although signed by Mrs Lianne Taylor it was a joint decision with her husband,) determined the claimant would be dismissed for some other substantial reason with notice, but made a payment in lieu.

10.2. In reaching that conclusion the decision makers considered that the claimant was evasive when asked questions about her and her family's relationship with Mr Bill Taylor. They believed there were contradictions in her evidence because the claimant initially said she was not involved in Mr Bill Taylor's everyday life but later admitted socialising with him. The failure to explain why Mr Bill Taylor had apparently been told not to mention any meetings with the claimant or her family or why no explanation was offered in respect of cleaning Mr Taylor's house or undertaking the school run/lifts were matters that in decision makers view told against the claimant

10.3. Prior to dismissal the tribunal was satisfied that the decision makers at least considered a lesser penalty but it was the claimant's presentation at the meeting of 04 October that persuaded them there was no realistic alternative

10.4. The claimant was advised in writing that she could appeal the decision.

10.5. The claimant did not appeal the decision to dismiss her.

Discussion

11. Introduction

11.1. As the tribunal explained on a number of occasions to the parties this case was not to determine whether or not the claimant or her family had "groomed" Mr. Bill Taylor. There was no claim for wrongful dismissal. Much of the evidence presented to the tribunal was superfluous.

11.2. The role of the tribunal was to adjudicate upon whether the respondent had established a fair reason for dismissal and then for it to determine whether or not the dismissal was fair or unfair in all the circumstances.

11.3. Nor was the role of the tribunal to regulate any relationship between Mr. Bill Taylor and Kenia. Neither were employees of the respondent. Whilst Mr. and Mrs. Taylor had concerns about that relationship, for understandable reasons, those were matters to be pursued elsewhere, if appropriate.

11.4. The tribunal had taken particular care to look at what the claimant actually did, encouraged, or was a part of.

12. The law the tribunal applied

12.1. The respondent must show on the balance of probabilities that a potentially fair reason has been established. It is a set of facts or circumstances known to the respondent at the time. The label is not determinative. The tribunal is conscious that there is a fine line between conduct and an SOSR, see **Perkins -v- St George's Healthcare NHS Trust 2006 ICR 617 CA.**

12.2. What is required said the EAT in **Harper -v- National Coal Board 1980 IR 260** was that the respondent had to show a genuinely held belief that it had a fair reason for dismissal, and that such a reason may be substantial provided it was not whimsical or capricious.

12.3. The tribunal considered the proper approach was that whilst the phrase loss of trust and confidence was frequently used it was more helpful to focus on the particular conduct complained of and even if there was a loss of trust and confidence it did not automatically bring obligations under the employment contract to an end.

12.4. Once the reason for dismissal was established it was for the tribunal to determine the fairness or otherwise of the dismissal having regard to section 98(4) ERA 96.

13. The reason for dismissal.

13.1. The tribunal is satisfied that the principal reason for the claimant's dismissal was that the respondent believed that she and her family were grooming Mr. Bill Taylor. The tribunal reach that conclusion on the basis that it was wholly consistent with the contemporaneous documentation and on the further basis that the reason was not challenged before the tribunal.

14. A fair dismissal?

14.1. The tribunal began by addressing the specific allegations relied upon by the claimant.

14.2. The specific allegations of unfairness were:-

No investigation took place and no witnesses were interviewed.

14.3. The purpose of an investigation is to gather evidence. Mr and Mrs Lee Taylor were well aware of the concerns they had. They had gathered evidence from speaking to people and from their own observations and interactions. The concerns cumulated over a period of time from a variety of sources. There was no reason for either Mr or Mrs Taylor not to think what they were being told was not the truth. It came from a variety of sources; trusted employees, neighbours of Mr Bill Taylor, from his oldest friend and from their own observations and an admission from Mr Bill Taylor himself.

14.4. The fact that such people were so concerned to take the trouble to speak, overcoming an often natural instinct not to become involved or to interfere, to Mr and Mrs Taylor demonstrated to the tribunal that the concerns were from those parties perception, genuine.

14.5. There was an investigation albeit it was not formally documented.

The claimant was not given detailed particulars of the allegations against her until the disciplinary hearing.

14.6. While specific examples of the conduct to which the respondent took issue were not detailed in the invitation letter to the disciplinary hearing the claimant knew the thrust of the allegation that she faced.

All that is required for fair procedure is that the letter must contain sufficient information for the claimant to prepare their defence to the case.

14.7. The evidence in support of the grooming allegation was discussed in detail with the claimant and she had the opportunity of putting forward her case. At no stage did she suggest, for example, that she needed more time. At no stage did her representative asked for an adjournment. The claimant was given a specific opportunity to say anything she thought relevant at the end of the meeting but did not avail myself of that opportunity.

The respondent should not have relied upon the claimant's daughter to act as an interpreter.

14.8. The tribunal had little hesitation in rejecting this criticism. The claimant chose her interpreter. There was no suggestion that her daughter was unable to translate given they both spoke fluent Spanish. There was no reason why the claimant would not trust implicitly her own daughter to act as an interpreter. Veronica frequently interpreted for the claimant in the work place. There was no suggestion that the claimant's daughter had difficulty understanding English or did not understand the questions that were being put. At no stage did the claimant raise any concerns as regards interpretation.

Mr and Mrs Taylor acted as complainants, investigators, decision-makers and appeal officers.

14.9. The tribunal accepted that it was desirable that the role of an investigator should ideally be kept separate from that of a determining officer.

14.10. However every case is fact specific. This was a small employer. Information came to Mr and Mrs Lee Taylor's attention from a variety of sources over a period of time. If they had chosen to act as investigating officers a difficulty would have arisen as to who would have then chaired the disciplinary hearing as there was no one more senior than themselves. If they had chosen, for example their operations manager that could have been open to criticism on the basis that she would naturally follow the concerns of her employers. The respondent could have utilised an external consultant to chair the disciplinary meeting. However even if that had occurred the consultant could only make a recommendation because it would be for the respondent i.e. Mr and Mrs Taylor to make the final decision whether to accept the recommendation. If a separate investigator had been appointed Mr and Mrs Taylor could not realistically put out of their mind what they already knew. Therefore even utilising this step would still have resulted in possible criticism.

14.11. None of the above should be taken to mean the tribunal found the process the respondent used to be ideal. It was not, but that is not the test the tribunal had to apply. The test was whether at all stages the respondent acted reasonably.

The questioning at the disciplinary hearing showed a premeditated decision.

14.12. The tribunal was not so persuaded. Mr and Mrs Lee Taylor had serious concerns. Those concerns were specifically put to the claimant so she had the opportunity to dispute them or to provide reassurance to the respondent going forward. Whilst the tribunal accepted there was some merit in the submission that Mr and Mrs Taylor were highly suspicious of the claimant that is not the same as saying they had already determined the outcome. The outcome letter set out reasoning, which was logical and based on the evidence and explain why dismissal was imposed. It highlighted the inconsistencies in the claimant's answers at the meeting on 04 October which was a relevant factor the respondent was entitled to take into account in reaching a conclusion

The sanction imposed was unreasonable and the respondent should have considered an alternative penalty such as mediation or a lesser sanction.

14.13. The above two grounds of challenge can conveniently be dealt with together

14.14. The claimant had conceded that the allegation Mr Bill Taylor had died was wholly erroneous.

14.15. However the tribunal in fairness to the claimant considered the issue of sanction generally. It was not for the tribunal to determine what sanction it would impose. The test was whether the sanction imposed by this employer fell outside the band of responses of a reasonable employer.

14.16. Firstly the tribunal accepted the respondent believed that there was a breakdown in trust and confidence. The claimant and her family, the respondent believed on reasonable grounds were grooming Mr Bill Taylor. In addition the claimant had by her behaviour at the meeting on 04 October given contradictory answers,.

14.17. The claimant had not, for example, offer to moderate her behaviour in the workplace towards Mr Bill Taylor. She gave no reassurance to the respondent as to her future dealings with Mr Bill Taylor. There was no suggestion from the claimant, for example that she would cease hugging and kissing him in the factory, or that she would cease secretive conversations with him.

14.18. She showed no appreciation of the respondent's concerns.

14.19. Mr Taylor was a hands on manager in a small company. In view of the claimant's presentation on 04 October the tribunal was not persuaded that a reasonable employer would have considered mediation.

14.20. Nor was the tribunal persuaded that a reasonable employer would have considered a lesser sanction having regard to the size of this particular employer and the nature of the concern and the close inter action between management and staff.

15. Conclusion

15.1. The tribunal after having addressed the specific issues raised by the claimant then stood back and looked at those concerns holistically to see whether, taken together they are such for it to determine that the respondent has failed to act reasonably. The law does not impose an elysian standard on employers. It is simply a standard to act reasonably.

15.2. The standard may vary on the size and administrative resources of a respondent.

15.3. The tribunal determined that in this case a reasonable process was followed in the particular and unusual circumstances. Essentially the claimant knew the case she had to meet. She was given time to prepare and arrange representation and the initial date of the disciplinary hearing was adjourned at her request. The allegations the respondent relied, were put to her. She was able to respond although in many occasions chose not to do so.

15.4. She was given a specific opportunity at the end of the hearing to say anything she wished.

15.5. The claimant was given reasons for her dismissal. An appeal procedure was offered to which he failed to avail himself of.

15.6. The respondent was entitled to take into account the contradictory answers from the claimant. The claimant suggested she had no involvement in the everyday life of Mr Bill Taylor but that was untrue.

Initially the claimant denied any specific friendship with Mr Bill Taylor. She then resiled on that point and said she had the same relationship with him as with anyone else in the company. That was untrue particularly having regard to the concerns raised by members of staff about the way the claimant was treating Mr Bill Taylor and warding off any of their attempts to better understand the situation.

15.7.Mr and Mrs Taylor were entitled to have concern as to how a family with a different cultural background, no obvious connection, a huge age difference, with very little knowledge of Mr Bill Taylor or any long-term friendship, suddenly decided that he was to be befriended particularly when coupled with the attempts to keep that relationship secret.

15.8.It was the contradictory nature of some of the answers coupled with the refusal to address concerns that ultimately led the respondent determining the claimant should be dismissed. There was a total breakdown in trust and confidence and the respondent was entitled to take into account both internal and out of work activities. The claimant had been less than honest and frank and have been evasive. The tribunal concluded that was sufficient to break the implied term of trust and confidence between an employer and employee.

15.9.In the circumstances the tribunal concluded that the section 98 (4) ERA 96 question was answered in favour of the respondent. Dismissal was within the bands of responses of a reasonable employer

16.Polkey

16.1.The proper approach when applying the Polkey principle is to examine what the employer would have done, see Langstaff J in **Hill v Governing Body of Great Tey Primary School UKEAT/0237/12/SM** :

“ A “Polkey deduction” has these particular features. First, the assessment of it is predictive: could the employer fairly have dismissed and, if so, what were the chances that the employer would have done so?It is not answering the question of what it would have done if it were the employer: it is assessing the chances of what another person (the actual employer) would have done the tribunal has to consider not a hypothetical fair employer, but has to assess the actions of the employer who is before the tribunal, on the assumption that the employer would this time have acted fairly though it did not do so beforehand.”

16.2.If it is found elsewhere that there was a procedural error, for example by not documenting the investigation or in a lack of specific information in the disciplinary invitation letter the tribunal concluded with certainty that even if such errors had occurred the claimant would still have been dismissed by this employer as she would have behaved and presented herself in exactly the same manner. In the circumstances a 100% Polkey reduction would be appropriate.

17. Contribution

17.1. Given this was an SOSR case and not a conduct case it was not necessary for the tribunal to consider the issue of contribution.

Employment Judge T.R. Smith

Date signed 01 April 2026

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