



EMPLOYMENT TRIBUNALS

Claimant: Ms M Ebling

Respondent: John Lewis PLC

Heard at: Croydon (via CVP)

On: 14 and 15 April 2026

Before: Employment Judge Leith

Representation

Claimant: In person

Respondent: Ms Defriend (Counsel)

JUDGMENT having been sent to the parties on 23 April 2026 and written reasons having been requested in accordance with Rule 60(4) of the Employment Tribunals Rules of Procedure 2024, the following reasons are provided:

REASONS

Claims and issues

1. The Claimant claims unfair dismissal.
2. The Respondent had prepared a draft list of issues, which accurately reflected the legal test for the Tribunal to apply. I confirmed with the parties at the start of the hearing that the issues to be determine at the liability stage were therefore as follows (including questions of *Polkey* and contributory fault, which I indicated I would deal with at the liability stage):
 - 1.1. It is common ground that the Claimant was summarily dismissed by the Respondent on 25 October 2024.
 - 1.2. What was the reason or principal reason for the dismissal, and was it a potentially fair reason? The Respondent contends that the reason for dismissal was the Claimant's mis\conduct (section 98(2)(b) ERA), namely theft/dishonesty/concealment of stock.

- 1.3. Did the Respondent act reasonably or unreasonably in all the circumstances, including the Respondent's size and administrative resources, in treating that reason as a sufficient reason to dismiss the Claimant?

The Tribunal's determination whether the dismissal was fair or unfair must be in accordance with equity and the substantial merits of the case.

Misconduct dismissals

- 1.4. If the reason or principal reason for dismissal was misconduct, the Tribunal will need to decide the following:

- 1.5. Did the Respondent genuinely believe that the Claimant had committed misconduct?

- 1.6. If so, were there reasonable grounds for that belief?

- 1.7. At the time the belief was formed, had the Respondent carried out a reasonable investigation?

- 1.8. Did the Respondent otherwise act in a procedurally fair manner?

- 1.9. Was dismissal was within the range of reasonable responses?

[...]

- 2.3 Would it be just and equitable to reduce the basic award because of any conduct of the Claimant before the dismissal? If so, to what extent?

[...]

- 2.4.3 Is there a chance that the Claimant would have been fairly dismissed anyway if a fair procedure had been followed?

- 2.4.4 If so, should the Claimant's compensation be reduced? By how much?

[...]

- 2.4.9 If the Claimant was unfairly dismissed, did she cause or contribute to her dismissal by blameworthy conduct?

2.4.10 If so, would it be just and equitable to reduce the Claimant's compensatory award? By what proportion?

Procedure, documents and evidence heard

3. I heard evidence from:
 - 3.1. Josh Gladstein, dismissing officer;
 - 3.2. Rita Rodrigues, appeal officer; and
 - 3.3. The Claimant .
4. Each of the witnesses gave their evidence by way of a pre-prepared witness statement, on which they were cross-examined.
5. I had before me a bundle of 406 pages. I explained to the parties at the start of the hearing that I would only read pages to which I was specifically referred. References in [square brackets] are to page numbers within the bundle.
6. There were additionally four lengthy pieces of CCTV footage in evidence before me. I explained that I would not watch all of the CCTV, but would only watch extracts to which I was specifically referred. Both parties referred me to specific extracts, which I (and the witnesses) watched before the evidence started. The Claimant was additionally shown specific short clips during the course of cross-examination.
7. At the end of the evidence I had the benefit of helpful oral submissions from Ms Defriend and the Claimant.

Fact findings

8. I make the following findings on balance of probabilities. I have not dealt with every area canvassed before me; rather, I have focused on those necessary to reach a conclusion on the issues in the claim.
9. The Respondent is a retailer which operates two brands – John Lewis and Waitrose. The Claimant was employed by the Respondent as a Supermarket Assistant (also known as a “Partner”) at the Kings Road branch of Waitrose from 21 November 2017 [41].
10. The Respondent had in force at the relevant times a Partner Handbook, which formed part of the contract of employment with the Claimant. The Partners Handbook said this regarding personal conduct:

“Partners are people of outstanding honesty and integrity. Our commitment to integrity is at the core of our co-owned business: we’re honest with each other and in all our business relationships. Behaviour falling short of our high standards aren’t tolerated and may result in disciplinary action, which could include losing your job.

11. It said this regarding property [207]:

“Partnership property

Any loss to the Partnership is a loss to us all. This is why we have strict procedures about the handling of merchandise, money and Partnership property. We take a very serious view of dishonesty, including theft or wilful damage to stock or property. For example, eating or drinking merchandise you haven't paid for or taking property or merchandise of any description from us, a colleague, a customer or a supplier without permission is regarded as stealing. This applies no matter how small or trivial the item is and whether it has any value to the Partnership. The following list is not exhaustive but, for example, this could be:

- reducing the price of stock or under-charging for yourself or a friend or colleague.
- taking stock 'out of hours' before you have paid for it.
- concealing and removing from the shop any item that's been 'written off' and has no commercial value.
- eating food from a damaged pack.
- eating leftover food.
- drinking from a can intended for disposal.

Failure to adhere to these requirements may result in disciplinary action, up to and including closure without notice.”

12. The Respondent also had in force at the relevant times a disciplinary policy. That policy provided included a non-exhaustive list of categories of gross misconduct, which could result in summary dismissal. That list include the following [277]:

“Dishonest misappropriation of property, services, benefits or money (including misuse of discount), eating or drinking merchandise that has not been paid for, theft, fraud, dishonesty and deception”

13. The Respondent had in force at the relevant times processes for dealing with food that was due to go out of date. During opening hours, products that were getting close to their expiry would have their price reduced. After the store closed (at which point the products could no longer be sold), certain types of food would be donated to a charity called Fareshare. Others could be taken by staff. Food taken by staff in that way was referred to as “Partner Donations”. The Respondent's policy was that items taken by staff as Partner Donations needed to be signed by a manager, but that did not appear to be enforced at the Kings Road branch. Items which were available to be taken as Partner Donations would usually be placed in a trolley at the front of the store, although loose bakery items would remain in their normal display place in the store, and could be taken from there by staff.

14. In October 2024, the Respondent's Profit Protection Team attended the Kings Road branch to investigate a report of high losses on the Lottery terminal. As part of their investigation they reviewed CCTV footage from the branch. They identified the Claimant acting in a way they considered to be suspicious. A separate investigation was therefore carried out by Amy Cooke, Profit Protection Area Manager, into the concerns raised regarding the Claimant's behaviour.
15. Ms Cooke reviewed the CCTV footage in question. She interviewed the Claimant on 19 October 2024. Notes of that interview were in evidence before me, which the Claimant agreed were broadly accurate [50].
16. Ms Cooke started the interview by asking the Claimant to explain the process for reducing items at the end of the day. She then asked the Claimant if she had taken anything home which was not a reduction, to which the Claimant replied "Can't think of anything". Ms Cooke then said this to the Claimant:

"Martina, I've told you about my role, and the tools I have at my disposal, do we agree that honesty is the best proposal?"

And then

"Okay, so I already know what has happened, I just need to understand why? When was the first time you stole from the partnership?"

17. The interview continued in that tone, with Ms Cooke inviting the Claimant to admit to having stolen from the Respondent. The Claimant met this with silence. Ms Cooke then showed the Claimant CCTV footage from 21 September 2024. That extract of the CCTV was shown to the Tribunal. It appeared to show:
- 17.1. The Claimant came on screen holding an item in her left hand. The item appeared to be pre-wrapped or boxed item (that is, not a loose bakery item).
 - 17.2. She took a bakery bag (which would be used by customers to place loose bakery items in), and placed the item in a bakery bag.
 - 17.3. She then placed the bag in a box on the bakery display where baguettes would usually displayed. Because of the size of the item, it did not protrude from the top of the bakery display box.
 - 17.4. A little later, the Claimant came on screen again with another item which she placed in a bakery bag, taking care to fold the end over, and then put it in the baguette box.
18. Ms Cooke asked the Claimant to inform her what were the items that were concealed on the CCTV. The Claimant gave no answer (the notes record simply "silence"). Ms Cooke then asked the Claimant to explain what happened in the CCTV. Once again, the Claimant was silent. When prompted, she said she did not know what was in the bakery bags and that the video did not jog her memory.

19. There was then a short adjournment. After the adjournment, Ms Cooke explained that she had noticed another incident on the CCTV where the Claimant had concealed items. She did not, however, show the Claimant the CCTV of the further incident she had found. In the context of the Claimant indicating that she did not remember what she had been doing on the CCTV she had seen, Ms Cooke referred to the incident has having taken place a week previously on 12 October. Of course the CCTV that she had showed the Claimant was from 21 September rather than 12 October.

20. At the conclusion of the meeting, Ms Cooke explained that she was suspending the Claimant.

21. On 22 October, Josh Gladstein, the Branch Manager, wrote to the Claimant to invite her to a disciplinary meeting which would take place on 25 October 2024 [68]. The letter set out that the allegation the Claimant was facing was:

“Potential serious misconduct namely, theft removing items from the store without payment.”

22. The letter noted that the Claimant was entitled to be accompanied to the meeting by a work colleague or Trade Union representative. The letter also noted that the outcome of the meeting may be disciplinary action up to and including dismissal.

23. The letter enclosed a copy of a document prepared by Ms Cooke which contained a number of CCTV stills from 21 September 2024, 12 October 2024 and 17 October 2024, with a narrative alongside those stills describing Ms Cooke’s interpretation of what could be seen in the footage [45]. The stills from 21 September 2024 were misdated “21.10.24”. The Claimant was not sent a copy of the full CCTV footage.

24. The disciplinary meeting took place on 25 October 2024. The Claimant was unaccompanied. Notes were kept, which the Claimant agreed in evidence were broadly accurate. At the start of the meeting, Mr Gladstein informed the Claimant that he understood she had had the opportunity to see the CCTV, and the Claimant explained that she has (although she did not at that point say she had only seen one piece of CCTV footage). Mr Gladstein asked if she would like to see the footage again. The Claimant said she was not sure if she would benefit from seeing it again, although there were errors with the dates.

25. There was some discussion regarding what had happened in the investigation meeting, and Mr Gladstein said this:

“You said you're busy, but help me understand the events which take place. When you come back on 21/09 - images clearly show you conceal items into the wooden french stick basket. Sandwiches which are reduced then go on the shelf. Image 5 which you viewed, you concealed an item into a bag into the flute box. Reduced

sandwiches were on the shelf. You're concealing into the wooden flute box."

26. The Claimant replied "I'm not concealing things. You are implying I am deliberately concealing things when I'm not.". The Claimant explained that she had not seen the footage from 12 October, only a still image from it. She did not ask to see it.

27. Mr Gladstein then said this:

"What I'm struggling with is both footage on 21st and 12th clearly show you conceal items in the bakery."

28. The Claimant replied "I have answered the question and don't know what to say anymore."

29. Mr Gladstein then adjourned to meting to deliberate.

30. As part of his decision-making, Mr Gladstein viewed the CCTV footage from both 21 September and 12 October. The 12 October footage was in evidence before the Tribunal. It showed that:

30.1. The Claimant came into shot holding an item. She placed the item right at the back of the bottom shelf in the bakery.

30.2. Around 10 minutes later, the Claimant came into shot wearing her own clothes (that is, having changed out of her work uniform). She appeared to lean towards the shelf where she had earlier placed that item, and put her hand out as though to reach in to retrieve it. At that point, another partner approached her from behind, at which point she straightened back up and withdrew her hand, leaving the item where it was.

31. After the adjournment, Mr Gladstein returned to the meeting and informed the Claimant that he believed that she had stolen from the Respondent, and that he was therefore dismissing her.

32. Mr Gladstein wrote to the Claimant on the same day to confirm his decision which was said to be for "serious misconduct namely theft". The letter informed the Claimant of her right to appeal. Mr Gladstein's outcome letter did not set out in any detail how he had reached the conclusion that he had. His evidence to the Tribunal was that:

32.1. The Claimant's "discreet concealment" of some items in paper bags then into the baguette box led him to think that she was being dishonest.

32.2. He could see a difference in the Claimant's behaviour at different times in the CCTV – before concealing items, she would look around to see if anyone else was in sight, which she did not do at other times.

- 32.3. She did not explain her behaviour in placing items in bakery bags.
- 32.4. Based on the CCTV evidence and the lack of explanation from the Claimant for her actions, he formed the belief that she was dishonestly concealing items and stealing from the store.

33. The Claimant exercised the right to appeal. Her appeal was heard by Ms Rodrigues, Appeals Manager, on 12 November 2024. The Claimant elected not to be accompanied at the appeal meeting. Notes of the meeting were in evidence before me [134]. Once again, the Claimant accepted that they were broadly accurate.

34. At the start of the appeal meeting, Ms Rodrigues summarised the Claimant's grounds of appeal as follows (and the Claimant did not disagree with the summary):

"Outcome was too severe or wrong, Procedure was wrong or unfair'
'The Procedure was wrong or unfair because:
- damage of reputation by using defamatory language on several occasions
- misnaming items on several occasions e.g. fairshare
- quoting wrong dates on several occasions
- inability to explain actions in CCTV for various reasons is seen as admission of guilt [sic]."

35. The Claimant explained to Ms Rodrigues that she did not understand the purpose of the investigation meeting, and that Ms Cooke confused her by using the wrong terminology regarding "Fairshare". She explained that she did not answer Ms Cooke's questions because she was confused. Ms Rodrigues then asked the Claimant to explain her actions, having seen the CCTV footage. The Claimant said this:

"I use the box for restocking temporarily some items will be for the bin and others won't be. I don't know what items they were. I do not believe the box is concealment. It is just the way I work. I had broken my toe and I had problems walking normally. The manager knew this. I do things the way I do things. I put them in the bag and box to deal with later. Other Partners put items in a bag to take home if they are wasted items. The items could have been rubbish or they could have been wasted items. I was not concealing things."

36. A little later, Ms Rodrigues asked another question about how the Claimant interpreted what she saw on the CCTV. The Claimant said this:

"I might have been putting the items in a box because it might have been a damaged item or reduction or an item to show a manager for them to decide on. There were no managers at that time as they would have gone home at that point. I would leave it in the back in the bakery desk for the manager to look at."

37. Ms Rodrigues also interviewed Ms Cooke and Mr Gladstein.

38. On 14 November 2024, Ms Rodrigues wrote to the Claimant to explain that her appeal was not upheld [138]. She set out her rationale for reaching the decision as follows:

“Like Josh, I believe you acted dishonestly and avoided answering the questions asked by Amy because

- you could not provide her with a credible explanation for concealing stock in the bakery aisle.
- Whilst I understand that other Partners put their selected items in bakery bags, your actions were not the same as theirs.
- Your explanation, that you placed items in the bag for waste, reduction, or for managers to decide on later, doesn't make sense to me. I am not convinced that you would put items intended for any of those purposes in the same bag and place it in the box meant for French sticks, where others would not see them.
- I do not believe Josh's decision was harsh given your conduct and based on the evidence I have reviewed, I am confident that his decision was fair and consistent with how other Partners in similar circumstances have been treated.
- I do not believe that the discrepancies you mentioned change the facts or the case against you.
- I believe Josh gave you plenty of opportunity to explain your actions which can be seen on CCTV but you were unable to give a reasonable explanation for placing items in a tall french stick box and on another occasion, placing an item at the back of the base shelf.
- Josh told me he believed it would be a risk to continue your employment due to the breakdown in trust, and I agree with him.
- I am satisfied that the disciplinary policy was correctly followed.”

39. The Claimant's evidence to the Tribunal regarding the footage was as follows:

39.1. In respect of 21 September, her evidence was that she would use the baguette boxes to store items while cleaning up at the end of the day – for example, she would put rubbish there, such as things that might have been dropped on the floor, and she also sometimes used it to store Partner Donations she had obtained in the time between the store closing and her finishing work at 10.30pm. Her evidence was that she finished at 10.30pm, whereas many other colleagues finished at 10pm – so if she obtained any Partner Donations when the store closed at 10pm, she would need to leave them somewhere safe until she finished her shift and could take them home, as if other colleagues saw them they would take them (not knowing that they were hers). Her evidence was that that was her normal way of working.

39.2. In respect of 12 October, her evidence was again that she may have been placing a Partner Donation there until the end of her shift so as to protect it from other colleagues. Her evidence was that

when the other partner approached her from behind she changed her mind about whether to retrieve the item and decided to walk with him to chat to him, and he was walking quite fast. She therefore decided to retrieve the item later.

40. The Claimant notified ACAS under the early conciliation process of a potential claim on 2 December 2024 and the ACAS Early Conciliation Certificate was issued on 13 January 2025. The claim was presented on 10 February 2025.

Law

41. Section 94 of the Employment Rights Act 1996 confers on employees the right not to be unfairly dismissed. Enforcement of the right is by way of complaint to the Tribunal under section 111.
42. Section 98 of the 1996 Act deals with the fairness of dismissals. There are two stages within section 98. First, the employer must show that it had a potentially fair reason for the dismissal within section 98(2). The burden of proof at that stage is on the employer. Misconduct is a potentially fair reason for dismissal.
43. Second, if the respondent shows that it had a potentially fair reason for the dismissal, 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. Section 98(4) provides that the determination of the question whether the dismissal was fair or unfair, having regard to the reason shown by the employer, shall depend on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee; and shall be determined in accordance with equity and the substantial merits of the case.
44. In misconduct dismissals, there is well-established guidance for Tribunals on fairness within section 98(4) in the decisions in *Burchell* [1978] IRLR 379 and *Post Office v Foley* [2000] IRLR 827. The Tribunal must decide whether the employer had a genuine belief in the employee'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 employer acted reasonably or unreasonably within 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. It is immaterial how the Tribunal would have handled the events or what decision it would have made, and 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)

45. As noted by Elias LJ in *Crawford and anor v Suffolk Mental Health Partnership NHS Trust* [2012] EWCA Civ 138, there is an obligation on employers when investigating disciplinary allegations to ensure that they focus as much on evidence which exculpates the employee as on that which inculpates him.

Conclusions

46. I start with the reason for the dismissal.

47. I am satisfied that the Claimant's conduct was the real reason for the dismissal. There was no suggestion of any ulterior motive. Mr Gladstein's (unchallenged) evidence was that it was his view of the Claimant's behaviour which led him to dismiss. I accept his evidence in that regard.

48. I turn then to the steps set out in the *Burchell* test.

49. I am satisfied that Mr Gladstein had a genuine belief that the Claimant had committed misconduct. It was not suggested to him in cross-examination that he did not hold that belief, or that it was confected. His evidence regarding why he had reached that conclusion was clear and unambiguous. Similarly, Ms Rodrigues' evidence was also clear and unambiguous.

50. I am satisfied also that both Mr Gladstein and Ms Rodrigues had reasonable grounds for the belief they had formed:

50.1. The CCTV footage told its own story. Viewed objectively, the Claimant's conduct on the footage in placing packaged items in a bakery bag then in the baguette box appeared to be intended to conceal the items in question. This gave rise to the obvious inference that the Claimant was doing or taking something she should not be. The Claimant's conduct in placing an item at the very back of the bakery shelf, then appearing to attempt to retrieve it before pulling back when another colleague came into view, similarly appeared to be intended to conceal the item in question. In both cases, it was conduct which, on the face of it, required some explanation.

50.2. In both the investigation and the disciplinary hearing, the Claimant provided no such explanation. She did not, at that stage, suggest any legitimate reason why she may have been placing packaged items in a bakery bag then placing them in the baguette box, or for placing the item at the back of the bottom shelf.

50.3. In light of that, Mr Gladstein had ample grounds to conclude that the Claimant had behaved in that way because she was stealing property from the Respondent. And it was reasonable for him to conclude that the behaviour of the other colleagues seen on the

CCTV taking Partner Donations did not give rise to any concern that they were stealing from the Respondent.

50.4. At the appeal stage, for the first time the Claimant gave some form of explanation for her behaviour. But the explanation was somewhat ambivalent, and did not explain why the items on 21 September needed to be wrapped in a bakery bag. Ms Rodrigues was entitled not to accept the explanation. Having done so, she again had ample grounds to conclude that the Claimant had been stealing from the Respondent.

51. Turning then to the investigation:

51.1. The CCTV evidence spoke for itself. There were no other witnesses to the incidents where the Claimant apparently concealed items, because she had only done so when no one else was in sight. The only other evidence that could sensibly be gathered was the Claimant's own evidence. And the Respondent sought to obtain that evidence by interviewing the Claimant, by asking her questions at the disciplinary hearing, and by giving her the opportunity to explain herself at the appeal hearing.

51.2. I have some reservations about the way in which Ms Cooke conducted the investigation meeting. Before she had even made it clear what the dates in question were or exactly what the Claimant was accused of having done, she confronted her by saying, in essence "I know what you did, so you might as well own up to it". That approach is not consistent with either the letter or the spirit of the ACAS Code of Practice.

51.3. After that inexplicable start, however, she did show the Claimant the CCTV footage from 21 September (which at that point in the meeting was the only allegation of which she was aware). She asked the Claimant to explain what she was doing. The Claimant's evidence to the Tribunal was that Ms Cooke only ever asked her what was in the bags, and she could not remember so could not answer. But that is not right – the notes were clear that the Claimant was given the opportunity to explain her actions, and she responded with silence. The Claimant is an intelligent and articulate lady. I do not accept that the erroneous reference to "Fairshare" would have confused her to such a degree that she could not explain her actions. Nor do I believe that the bizarrely aggressive approach taken by Ms Cooke at the start of the meeting would have prevented the Claimant from being able to provide an explanation for the way she had acted in the footage.

51.4. The Claimant was not shown the video of 12 October, which appeared to be because that incident only came to Ms Cooke's attention during an adjournment. But she was shown a still of it, and there is no suggestion that she asked to see the video.

51.5. Mr Gladstein then offered to show the Claimant the CCTV videos again. The Claimant was well aware at that point that there were two dates in issue – 21 September and 12 October. Mr Gladstein was under the misapprehension that the Claimant had seen both sets of CCTV. The Claimant refused the opportunity to see it “again”. I do not consider that the use of the word “again” could have confused her to such a degree that she was unable to recognise that, if she had any sort of explanation for her behaviour, it would assist her to view the CCTV so as to explain it.

51.6. Stepping back therefore, I consider that the investigation that was carried out was a reasonable one overall.

52. Turning then to the process that was followed:

52.1. The Claimant was interviewed at the investigation stage. I have already explained the issues with that interview; but she was at least given the opportunity to explain the 21 September footage.

52.2. The Claimant was then sent a letter inviting her to a disciplinary hearing. She was warned that dismissal was a possible outcome. She was reminded of the right to be accompanied. She was sent the evidence gathered, including the notes of the meeting with her and stills from the CCTV. There would clearly have been issues with sending her the whole CCTV footage, given the large size of the files and the data protection issues as other colleagues’ faces were visible. But the stills and accompanying narrative made it clear what conduct was in issue and on what dates.

52.3. At the disciplinary hearing, the Claimant was given the opportunity to view the CCTV (which she refused). She was given the opportunity to state her case.

52.4. Mr Gladstein then adjourned to deliberate before reaching his decision.

52.5. The Claimant was informed of the outcome in writing. The outcome letter was somewhat brief, and did not explain Mr Gladstein’s reasoning in any detail – but it was at least clear from that that he had reached the conclusion that the Claimant had been stealing from the Respondent.

52.6. The Claimant was given the right to appeal. When she exercised that right, her appeal was heard by an independent manager.

52.7. Ms Rodrigues considered the Claimant’s appeal grounds, and investigated them, before reaching a reasoned conclusion. The Claimant was given the outcome in writing.

53. Stepping back, while the process was certainly not a counsel of perfection, The Respondent is a large and sophisticated employer, with in-house HR support; that is of course relevant to what might be expected of it. Even bearing that in mind however, in my judgment the process as a whole fell within the range of reasonable responses open to a reasonable employer.

54. I turn then to the decision to dismiss the Claimant. I remind myself that I am not deciding what I would have done – rather, I am deciding whether the Respondent's decision fell within the range of reasonable responses open to a reasonable employer. In that regard:

54.1. The Respondent's policy and Partner Handbook were very clear that theft would not be tolerated and would be regarded as gross misconduct – understandably, given the nature of Respondent's business. That was the case regardless of the value of the items (and even if they were of no value at all to Respondent).

54.2. Mr Gladstein had reasonably concluded that the Claimant had stolen from the Respondent. He did not know, and it was not possible to determine, what had been stolen; but that was not important given the clear nature of the Respondent's policies and the need for the Respondent to have trust in its employees.

54.3. Similarly, Ms Rodrigues had also reasonably concluded that Claimant had stolen from the Respondent.

54.4. The Claimant had been given the opportunity to present mitigation – she was asked during the investigation if, for example, she was in financial difficulty, which she denied.

54.5. The Claimant had denied stealing. The corollary to that was that she could not have demonstrated any insight into the conduct Mr Gladstein and Ms Rodrigues had concluded she had engaged in, because she denied the conduct.

54.6. Mr Gladstein had therefore concluded that he had lost trust in the Claimant.

55. In the circumstances, I consider that dismissal fell squarely within the range of reasonable responses. It follows that the complaint of unfair dismissal fails. It is therefore unnecessary to deal with *Polkey* or contributory fault.

Approved by:
Employment Judge Leith
Date: **19 May 2026**

REASONS SENT TO THE PARTIES ON
20 May 2026

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FOR THE TRIBUNAL OFFICE