



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4103756/2025

Held in Glasgow by Cloud Video Platform (CVP) on 19 & 20 February 2026

Employment Judge S MacLean

Mrs J Noble

**Claimant
Represented by:
Mr A Hardman -
Advocate**

T.J. Morris Limited

**Respondent
Represented by:
Mr G Cunningham -
Advocate**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The judgment of the Employment Tribunal is that: (1) the respondent unfairly dismissed the claimant; and (2) the respondent is ordered to pay to the claimant the monetary award of £16,397.24. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 do not apply.

REASONS

Introduction

1. The claimant alleges that she was unfairly dismissed by the respondent on 9 July 2025 and seeks compensation. The respondent accepts that the claimant was dismissed but contends that the dismissal was for gross misconduct and was fair.
2. I heard evidence for the respondent from Christopher Nicol, Area Manager; Ian Swift, HR Manager; and John Withers, Regional Manager for Scotland. The claimant gave evidence on her own behalf. The parties lodged a joint set of documents, which was referred to during the evidence.
3. The parties submitted written submissions, which they addressed orally following the conclusion of the evidence.

4. I set out only those findings of fact necessary to explain my reasons and to understand the material evidence. I address the parties' submissions in the context of the facts, the applicable law, and its application to those facts.

Findings in fact

5. The respondent is a limited company operating as a discount retailer. It employed the claimant as a supervisor at its Home Bargains store in Fort William on 18 March 2018. She was promoted to deputy manager and then store manager in 2021. She received some training on disciplinary processes around 2023 but had not previously been involved in any conduct-related disciplinary matters. Throughout her employment, the same area manager was responsible for approximately ten stores including the Fort William store (the Area Manager).
6. The respondent's HR function is based at its head office in Liverpool. HR provides advice to operational managers and drafts and issues all disciplinary correspondence. Payroll is also administered from head office.
7. The respondent operates a disciplinary policy applicable to employees who have completed their probationary period. It does not form part of terms and condition of employment. The policy distinguishes between misconduct, serious misconduct and gross misconduct, with examples provided. However a common-sense approach is encouraged. Misconduct may result in a written warning. Serious misconduct may result in a final written warning at first instance, with further such misconduct attracting a higher sanction. Gross misconduct may result in a final written warning or summary dismissal, and may give rise to suspension.
8. In addition to dismissal, whether with pay in lieu of notice or summarily without notice, the policy provides that, in cases of gross misconduct only, demotion or transfer may be considered. A final written warning remains live for 12 months. The policy includes a right of appeal, on which the original decision may be upheld or overturned, or, in dismissal cases, the employee may be reinstated with demotion and/or a sanction.

Team Member complaint

9. In late April or early May 2025, the claimant contacted HR regarding the persistent timekeeping issues of a team member who had been employed since November 2024 (the Team Member). The Team Member had previously been spoken to verbally on several occasions by the claimant and others about their timekeeping. HR advised the claimant to hold a meeting with the Team Member, keep a note of the discussion, and monitor the situation.

10. On 14 May 2025, the claimant started work at 6am due to staff shortages. The Team Member was due to start work at around 4pm. At approximately 5pm, the claimant invited the Team Member to a meeting, which the deputy store manager attended. The claimant raised concerns about the Team Member's timekeeping, offered a change to the Team Member's contractual arrangements, and questioned their commitment to the role. The claimant considered the Team Member's response and demeanour to be inappropriate and, told the Team Member that they were dismissed. The decision was not premeditated. Around thirty minutes later, the Team Member asked about payment for outstanding holiday, and the claimant said that this would be dealt with by HR as part of the final salary.
11. On the same date, the claimant completed a document headed "Performance Management Review Decision Form", recording that the Team Member was to be dismissed with notice. No disciplinary process was conducted.
12. The claimant had no involvement in drafting the letter terminating the Team Member's employment or in preparing any subsequent documentation and termination payments.
13. Without the claimant's knowledge, the Team Member wrote to the HR on 21 May 2025 complaining of wrongful dismissal, said to have occurred on 8 May 2025, the absence of any right of appeal, and alleged age discrimination. The Team Member stated that they did not seek reinstatement.
14. On 6 June 2025, the Team Member was invited to attend an appeal hearing on 12 June 2025, conducted by the Area Manager.
15. Following that appeal hearing, on 17 June 2025 the Area Manager carried out an investigation at the Fort William store. He interviewed another team member, the deputy store manager and the claimant on an individual basis.
16. On 20 June 2025, the Area Manager wrote to the Team Member advising that the investigation had identified that the disciplinary procedure had not been followed. He revoked the decision to dismiss and determined that the Team Member should be reinstated with effect from the date of dismissal, with a proposed return to work during the week commencing 30 June 2025. The Area Manager found no evidence of discrimination.

Investigation meetings with the claimant

17. At the investigation meeting on 17 June 2025, the claimant confirmed to the Area Manager that she had not conducted any formal probationary reviews with the Team Member, although she had spoken to them informally. She explained that it was the Christmas period and that she was short-staffed. She described ongoing staffing difficulties and other concerns. The claimant

stated that the meeting on 14 May 2025 was not intended to be a disciplinary meeting but to discuss the Team Member's persistent lateness and to present evidence of that lateness. She had not intended to dismiss the Team Member and accepted that she had not informed them of their right of appeal or their right to be accompanied. She confirmed that she had not previously conducted disciplinary hearings or dismissed any employees, and stated that, in retrospect, she should have contacted the Area Manager. Records from the computer portal show that the claimant completed TED training on discipline and grievance matters on 31 July 2023.

18. The Area Manager met with the claimant on 23 June 2025. The claimant confirmed that she had attended a training day in Glasgow on 20 May 2023 delivered by the respondent's HR team, at which the disciplinary process and procedure were covered. She further confirmed that she subsequently signed a form confirming that she had read and understood the respondent's disciplinary policy.
19. At the investigation meeting on 27 June 2025, the Area Manager advised the claimant that he had overturned the decision to dismiss the Team Member and had reinstated them. He indicated that he did not believe the Team Member would return to work, and confirmed that payment had been made in respect of lost wages. The Area Manager then advised the claimant that the meeting would proceed as a disciplinary hearing, with allegations of gross misconduct and dereliction of duty. He explained that he had the power to suspend the claimant but had decided not to do so. He made clear, however, that the claimant was not to be involved in any colleague or manager HR matters and that, should any such issues arise, she was required to contact either the Area Manager or HR.
20. On 2 July 2025, the Area Manager wrote to the claimant inviting her to attend disciplinary hearing on 9 July 2025, to be conducted by Christopher Nicol, Area Manager. The allegations were gross misconduct: dereliction of duty and serious breach of any company policy or procedure. The claimant was advised that the allegations, if upheld, could result in dismissal and of her right to be accompanied.

Disciplinary hearing

21. Mr Nicol was the area manager for Glasgow and Lanarkshire. He had joined the respondent in January 2025 and had no prior knowledge of the claimant. In preparation for the disciplinary hearing, he read the notes of the investigation meetings with the claimant on 17, 23 and 27 June 2025; the disciplinary invite letter and he had access to the respondent's disciplinary and probationary policies. He understood his role to be to consider the evidence and the claimant's explanation, and to reach a decision.

22. The claimant attended the disciplinary hearing accompanied by her trade union representative. A store manager was also present and took handwritten notes. At the conclusion of the hearing, those present signed the notes to confirm that they were an accurate record of what had been discussed.
23. During the disciplinary hearing, Mr Nicol confirmed that he was not considering the Team Member's conduct but the process of the dismissal. The claimant stated that she had not carried out a formal probationary review of the Team Member due to the time of year. She explained that the meeting on 14 May 2025 had been convened to discuss the Team Member's persistent lateness, any explanation for it, and whether the Team Member wished to remain in the role. She confirmed that she had offered reduced contractual hours and that, based on the Team Member's demeanour, she formed the impression that they were no longer interested in the job. She accepted that she had verbally dismissed the Team Member but maintained that she had no prior intended to do so. She further stated that she had not previously conducted formal disciplinary hearings for conduct issues, as issues had usually been resolved informally. She acknowledged that she knew how to access the relevant policies and procedures and accepted that she had failed to follow them. In hindsight, she stated that she would not have dismissed the Team Member but would have held a discussion, made a written record, and spoken to the colleague who had been required to stay late to provide cover. By way of mitigation, on 14 May 2025, the claimant said that there was team leaders' training in Inverness, she had worked from 6.00am to 8.30pm. It was the anniversary of a family bereavement. The claimant described the known recruitment difficulties in the area, not having the full complement of team leaders, the limited management support, her lack of experience in conduct matters, and the fact that the incident was not premeditated but occurred in the heat of the moment. She stated that this was a personally challenging time and apologised for what had occurred. The claimant explained that when promoted due to the geography of the store, she did not attend another store nor did anyone attend the Fort William store. Mr Nicol adjourned the hearing indicated that he would consult with HR before reaching a decision.
24. Mr Nicol concluded that there were vacancies in the management team, and the claimant had used step ups arrangements to ensure adequate coverage. However she had not sought support to ensure compliance with the probationary process. He accepted that the decision to dismiss the Team Member was not premeditated. However, he noted that the claimant did not seek advice from the Area Manager, HR, or her peers during the process. He considered that there were lessons to be learned from the lack of effective support following the claimant's promotion, but noted that the claimant had not asked for help.

25. Approximately 90 minutes later, Mr Nicol reconvened the hearing with the claimant and her representative. He communicated his decision to dismiss the claimant with pay in lieu of notice. He stated that this decision was based on the seriousness of the matter, namely that the Team Member's employment had been terminated without following company procedure, no prior documentary evidence, despite the claimant being trained, knowing where to go and having used correct forms previously. He further stated that the claimant's actions had exposed the business to significant financial and reputational risk and that she had had an opportunity on the same day to attempt to remedy the situation when the colleague returned to ask questions. He concluded that this amounted to a fundamental breach of trust.
26. On 10 July 2025, the claimant received an outcome letter setting out the reasons for Mr Nicol's decision. The letter stated that Mr Nicol concluded that there was sufficient evidence to substantiate gross misconduct. While he accepted that it had not been the claimant's intention to dismiss the colleague, he found that she had failed to fulfil her managerial responsibilities by not following the probationary policy or the company's investigation and disciplinary procedures, notwithstanding the mitigating factors raised. The letter recorded that the decision was one of summary dismissal, taking effect immediately, and that the claimant was not entitled to pay in lieu of notice. The claimant was advised of her right of appeal, which she exercised on 15 July 2025.

Appeal hearing

27. The claimant contended that dismissal was a disproportionate sanction for a first offence, relying on her previously unblemished employment record and characterising the matter as a procedural failing rather than misconduct. She maintained that she did not intend to dismiss the Team Member, who had a history of persistent lateness over an eight-month period and had been spoken to by several managers. Her intention, she said, was to explore underlying issues and the possibility of reduced hours. She explained that events occurred outside normal working hours, when HR and the Area Manager were unavailable.
28. The claimant relied on a range of mitigating factors, including severe staff shortages, significant work pressures, and personal strain. She denied acting recklessly and emphasised her limited training and experience in disciplinary matters, the inadequacy of online training, and a lack of ongoing support, reviews, or development over the preceding two years.
29. She also complained of procedural unfairness, including non-disclosure of witness statements and an unexplained change in the respondent's assessment of her as a business risk. She asserted that not all relevant

evidence and mitigation had been considered. The claimant accepted responsibility, expressed genuine remorse, indicated a willingness to undertake further training and coaching, and asserted that she had not received payment in lieu of notice.

30. Mr Withers, Regional Manager, who had been employed by the respondent since January 2025, wrote to the claimant inviting her to the appeal hearing on 30 July 2025 which he conducted.
31. In preparation, Mr Withers had read the disciplinary invitation, the notes of the disciplinary hearing, and the grounds of appeal. He also had access to the investigation notes. Mr Withers considered his role to be to determine whether the claimant had received a fair disciplinary hearing and whether the sanction imposed should be upheld.
32. At the hearing, Mr Withers was accompanied by an area manager, who took notes. Mr Withers worked through each of the grounds of appeal. At the conclusion of the hearing, he adjourned to consider the appeal.
33. Mr Withers felt that the Team Member had been wronged. He considered the claimant's assertion that she had not been trained to be untrue, noting that she could have accessed the relevant policies online if she was uncertain. He regarded the claimant as having been dishonest. He found no procedural flaws in the process. He concluded that the claimant had demonstrated remorse only once the matter had been brought to light.
34. On 4 August 2025, Mr Withers met with the area manager who had accompanied him at the hearing. The area manager completed the appeal decision form, recording that all points raised had been considered. It was noted that the claimant had failed to contact head office or the Area Manager and had made no attempt to seek support or guidance. While she had shown genuine remorse, it was concluded that the seriousness of her actions and the impact on the business could not be overlooked.
35. By letter dated 5 August 2025, the claimant was advised that her appeal was refused.
36. At the effective date of termination, the claimant was 58 years of age and had seven years' completed service. Her gross weekly wage was £894.73 (capped at £719) and her net weekly wage was £671.53. The weekly employer pension contribution was £26.84.
37. The claimant was not in receipt of benefits. She initially applied for jobs in the role of store manager in Fort William. However she was unsuccessful. The claimant obtained alternative employment on 20 August 2025, earning

between approximately £415 per week. The claimant continues to make applications for jobs at a level commensurate with her former employment.

Observations on witnesses

38. All witnesses gave their evidence in a straightforward manner. In relation to the material findings of fact, there was little, if any, conflicting evidence.
39. Mr Swift gave evidence concerning receipt of the complaint from the Team Member and the involvement of the Area Manager in the appeal process. Certain documents relating to that process were produced. However, during the disciplinary process the claimant was not provided with the Team Member's complaint or with the statements obtained from her colleagues as part of that investigation. The only material from that process made available to Mr Nicol consisted of the investigation notes of meetings held with the claimant. In those circumstances, I attach little weight to this documentation, as it did not form part of the disciplinary documentation.
40. Mr Swift also gave evidence regarding the preparation of standard outcome letters, which he said would be populated with information arising from the disciplinary hearings and then submitted to the operational manager who had conducted the hearing for approval. He stated that he had drafted the dismissal letter sent to the claimant on the basis of documentation provided by Mr Nicol. Mr Swift explained that he amended the reference to pay in lieu of notice on the basis that the dismissal was for gross misconduct and said that he discussed this change with Mr Nicol.
41. While I accepted Mr Swift's explanation as to why the letter was drafted in the manner it was, I was not satisfied that he in fact spoke to Mr Nicol about the amendment. Although the allegation was one of gross misconduct, this was not reflected in the summary decision, nor was the relevant box ticked on the decision form. If Mr Swift had discussed the change with Mr Nicol, I would have expected Mr Nicol to have recognised and raised the inconsistency between the terms of the letter and what he had communicated to the claimant at the disciplinary meeting, and to have ensured that an explanation for that inconsistency was provided. I consider it more likely than not that the amendment was made by Mr Swift and that any review of the letter by Mr Nicol was cursory.
42. My impression was that Mr Withers did not approach the appeal hearing with an open mind, but was instead going through the motions. He concluded (unlike Mr Nicol) that the claimant had "lied" about her training without mentioning that to the claimant. He also made assumptions about what he considered to be the "wrong" done to the Team Member based on assumptions and without investigating those matters. Further, given that the

appeal hearing concluded at approximately 1pm on Wednesday 30 July 2025, I found it surprising that the appeal decision form was not completed until the following Monday, and that it was completed by the note-taker rather than by Mr Withers himself.

43. The claimant gave evidence regarding her efforts to obtain alternative employment in the Fort William area. She attended interviews but was unsuccessful and was told that perhaps the salary she had previously been paid was higher than employers in the area were prepared to offer. She was subsequently offered and accepted employment as an assistant at a lower salary. The claimant stated that she had continued to seek alternative work but had been unsuccessful. Although it was suggested in cross-examination that she had not made sufficient applications, there was no evidence before me of any specific vacancies for which the claimant could reasonably have applied but failed to do so. Nor was any such evidence led by the respondent's witnesses.

Deliberation and conclusion

44. The respondent admitted dismissing the claimant on 9 July 2025. I referred to section 98 of the Employment Rights Act 1996 (ERA) which deals with the fairness of the dismissal.
45. Under section 98(1), it is for the employer to show the reason (or if there is more than one, the principal reason) for the dismissal, and that it was a potentially fair reason falling within section 98(2).
46. The respondent said that the reason for dismissal was conduct (a potentially fair reason). Mr Nicol confirmed in evidence that he dismissed the claimant because she had not followed company procedure when dismissing an employee and there was no evidence of following the probationary process. The claimant did not suggest that there was any alternative reason for dismissal. I concluded that the respondent was successful in establishing that dismissal was for a potentially fair reason.
47. I then considered whether the dismissal was fair or unfair under section 98(4). This involved having regard to the reasons shown by the employer, and 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 it must be in accordance with equity and the substantial merits of the case.
48. As this was a conduct dismissal, I asked whether the respondent had a genuine belief in the claimant's guilt. Then, whether the respondent held such

a genuine belief on reasonable grounds and after carrying out a reasonable investigation.

49. I was satisfied that, at the point of dismissal, Mr Nicol genuinely believed that the claimant had failed to follow the disciplinary procedure and that there was no evidence of compliance with the probationary process. He believed that this had exposed the business to a huge risk in terms of cost and reputation. The claimant accepted that she had not followed the disciplinary policy and that she had not completed the documentation required under the probationary policy. She did, however, explain that this occurred during a particularly busy period over Christmas and that she had spoken to the Team Member.
50. I was mindful that I must not substitute my own view as to what constituted a reasonable investigation, nor undertake an assessment of the weight or quality of the evidence so as to reach its own conclusion as to what a disciplinary manager ought to have found. The correct approach was to apply the range of reasonable responses test to the investigation conducted by the respondent and to the decision to dismiss the claimant.
51. I turned to consider the investigation. The three investigation meetings were conducted by the Area Manager, who was the claimant's line manager. He did not suspend the claimant during the investigation, nor when he decided to recommend formal action. From the notes, he was aware that he had the power to suspend if he considered there to be a risk, but he decided not to do so. However, he did restrict the claimant from being involved in HR matters without first speaking to him or HR.
52. The claimant was not accompanied at the investigation meetings. I did not consider that the claimant had a right to be accompanied at the investigation stage. Contemporaneous notes were taken at those meetings and were signed by the claimant as an accurate record. She answered the questions openly and candidly. There was no evidence that the Area Manager had any further involvement in the investigation.
53. Mr Nicol conducted the disciplinary hearing. He had no prior involvement with the claimant. He was not accompanied by an HR representative, although he referred to having taken advice during the adjournment prior to reaching his decision. I considered that it was reasonable for him to do so given that the note taker was operational rather than HR. However having done so, I was surprised that he said that the handwritten decision which he read out at the hearing and referred to dismissal with pay in lieu of notice was an error.
54. The claimant was accompanied at the disciplinary hearing. She was aware of the allegations against her to which she was expected to respond. While

she was not provided with the Team Member's complaint or the statements taken from her colleagues, I did not consider that this was unreasonable given Mr Nicol's clarification that it was the process of that dismissal he was considering not the substance. There was no issue that the claimant had a proper basis for speaking to the Team Member about their timekeeping, nor that they had previously been spoken to by the claimant and other colleagues. The focus of the disciplinary process was the claimant's failure to follow procedural requirements.

55. The investigation continued into the disciplinary hearing, during which the claimant reiterated the explanation she had previously provided at the investigation meetings. Mr Nicol considered that "during the process" the claimant did not speak the Area Manager, HR or her peers for advice. It was unclear what Mr Nicol meant by "during the process". It was not disputed that on 14 May 2025, the claimant, in the heat of the moment did not speak to HR or the Area Manager. The claimant acknowledged that the Team Member spoke to her later in the shift about holiday pay. They did not ask about a right of appeal. Mr Nicol considered that this was an opportunity for the claimant to remedy the situation. If Mr Nicol was referring to the letters of termination, issue of final salary and P45 to the Team Member he did not ask the claimant what involvement if any she had in this process.
56. In relation to the probationary process Mr Nicol appeared to accept that it was a busy period but that the claimant could and should have sought support, including following her promotion. Given the weight placed on the claimant's failure to ask for support, and her comments about recruitment difficulties being known, I considered that during the disciplinary hearing a reasonable employer would have explored whether any such requests had in fact been made, and if so, when and to whom. If no requests were made, it would also have been reasonable to enquire why the claimant did not feel able to seek assistance.
57. Mr Nicol concluded that the claimant had exposed the business huge risk in terms of cost. On the information available to him, there was no explanation how that conclusion had been reached. He was aware that the matter concerned an internal complaint by a Team Member with approximately seven months' service who, following an appeal hearing, had been paid outstanding wages and was likely not to return to the business. Mr Nicol did not make enquiries as to what, if any, actual financial loss or adverse reputational impact had arisen or was likely to arise as a result of these events. I considered that a reasonable employer would have sought such information so that the alleged risk could be articulated and put to the claimant, affording her an opportunity to comment upon it.

58. I then applied range of reasonable responses test to the decision to dismiss and the procedure by which that decision had been reached.
59. The investigation was undertaken by the Area Manager. The claimant knew that the Team Member had complained about his dismissal. The Area Manager had no involvement after his investigation. The invite to the disciplinary hearing warned that dismissal was a potential outcome.
60. At the disciplinary hearing, the claimant was accompanied and aware of the case against her. Mr Nicol listened to the claimant's explanation at the disciplinary hearing when she was given an opportunity to explain her position and comment on any mitigating circumstances.
61. Mr Nicol believed that the claimant had failed to follow the disciplinary and probationary procedures and had thereby exposed the respondent to significant financial and reputational risk. While there was a serious failure to comply with the disciplinary procedure, there was no evidence that the claimant deliberately failed to do so. She was contrite once the error had been identified, and there was no suggestion that she had wilfully disregarded the procedures. Although the claimant accepted that she had attended a training day in 2023 and had access to the relevant documentation, her position was that she lacked experience in conducting disciplinary proceedings relating to conduct and, given the geographical location of the store, lacked meaningful support. She had been internally promoted over a period of seven years and there were vacancies within her management team.
62. While I considered that Mr Nicol had reasonable grounds for believing that the claimant had failed to follow company procedure and had carried out a reasonable investigation to that extent, I did not consider that he had reasonable grounds for concluding that the claimant had exposed the business to significant financial and reputational risk.
63. The claimant appealed against the decision to dismiss her. She was invited to attend an appeal hearing at which she was accompanied. The appeal was determined by Mr Withers, who had not been previously involved in the matter. As set out above, Mr Withers formed adverse views regarding the claimant's honesty and the alleged "wrongs" done to the Team Member. Those views were based on assumptions and were not put to the claimant for comment or clarification.
64. I then considered the decision to dismiss the claimant. I was mindful that the question was not whether I would have dismissed the claimant, but whether the respondent's decision to do so fell within the range of reasonable

responses open to a reasonable employer in those circumstances and in that business.

65. The claimant candidly accepted that she had failed to follow the disciplinary process. She acknowledged that she had not intended to dismiss the Team Member and that, having done so, she failed to offer a right of appeal.
66. I observed that there was no history of misconduct on the part of the claimant. She had been promoted internally by the respondent and had no prior record of disciplinary action. The respondent had policies and procedures in place, with remote HR support available to managers and electronic access to relevant documentation. There was an expectation that managers would be self-directed and keep themselves informed. However, there was no evidence of any performance reviews or appraisals of the claimant having been conducted by the Area Manager or anyone else. Indeed, notwithstanding that he was her line manager, it was only when investigating that Area Manager ascertained what disciplinary training the claimant had previously undertaken. While the claimant was criticised for failing to seek support, there was no evidence that such support was readily available to her, given her geographical location, even if it had been sought. The involvement of HR and the Area Manager was reactive to the Team Member's complaint, rather than arising as part of any structured management or support process.
67. I concluded that the respondent's decision to dismiss the claimant did not fall within the range of reasonable responses open to a reasonable employer in the circumstances. Although there was a serious breach of a non-contractual disciplinary procedure, a reasonable employer would have given proper consideration to all the facts and to the mitigating factors. The meeting in question was not a pre-arranged disciplinary hearing, and the claimant did not deliberately disregard the disciplinary process. This was her first disciplinary matter. It was accepted that there were lessons to be learned regarding the adequacy of post-promotion support. The claimant showed remorse and a willingness for training and coaching. In light of the mitigating circumstances, a reasonable employer would have considered alternatives to dismissal, such as a final written warning or demotion. Those alternatives would have marked the seriousness of the procedural failure while addressing any perceived risk to the respondent, for example by restricting the claimant's disciplinary authority pending appropriate training. In my judgment, the dismissal was unfair.
68. I turned to consider remedy. The basic award for unfair dismissal is 10.5 weeks capped at £719 per week, that is £7,864.50.

69. Turning to the compensatory award, I took a broad brush approach and considered what was just and equitable in the circumstances. The compensatory award is for financial loss and it is not punitive.
70. The claimant sought past loss from date of dismissal until the date of hearing. That is 32.28 weeks' at £671.53 per week that is £21,676.99 plus loss of pension contributions of £26.84 per week that is £866.39, giving a total of £22,543.28.
71. I then turned to the issue of future loss. While I was not persuaded, on the evidence before me, that the claimant had failed to mitigate her loss, I did consider that she was an experienced manager and would be well placed to secure more senior roles, albeit that her salary expectations might require to be moderated. In those circumstances, I concluded that it was appropriate to limit the award loss from the date of the hearing to 12 weeks, calculated at £671.53 per week, that is £8,058.36 plus loss of pension contributions of £26.84 per week that is £322.08 giving a total of £8,380.44.
72. I also made an award of £400 in respect of loss of statutory rights. The total compensatory award is (£22,543.28 + £8,380.44 + £400) £31,323.72. From that sum there falls to be deducted the claimant's earnings from her new employment, calculated as 44.28 weeks at £415 per week, amounting to £18,376.30. The resulting compensatory award is £12,947.42.
73. I then turned to the question of contributory conduct. Contributory conduct may apply to both the basic award and the compensatory award. In relation to the basic award, it applies where the conduct of the claimant prior to dismissal was such that it would be just and equitable to reduce the award. In relation to the compensatory award, where the Tribunal finds that the dismissal was caused or contributed to to any extent by any action of the claimant, the award must be reduced by such proportion as the Tribunal considers just and equitable having regard to that finding.
74. I found that the claimant had received some training on disciplinary procedures and knew how to access relevant information on the respondent's internal systems. While the dismissal of the Team Member occurred in the heat of the moment, the claimant could have reflected upon her actions in the following days and sought advice. Notwithstanding that she had taken the decision to dismiss in the manner that she did, by seeking advice shortly afterwards it would have been open to the respondent to offer the Team Member a right of appeal before any complaint was raised. By failing to follow the procedure and seeking advice, the claimant contributed to the circumstances leading to her dismissal. I therefore concluded that there should be a reduction of 20 per cent to both the basic and compensatory awards to reflect the claimant's contributory conduct.

75. The basic award is accordingly reduced by £1,509.90 from £7,549.50 to £6,039.30. The compensatory award is reduced by £2,589.48 from £12,947.42 to £10,357.94. The total monetary award is therefore £16,397.24, comprising £6,039.30 by way of basic award and £10,357.94 by way of compensatory award.
76. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 do not apply.

Date sent to parties

15 May 2026