



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 8002545/2025

Held in Glasgow 9-11 September 2026

Employment Judge Sangster

S Campbell

**Claimant
In Person**

Booker Direct Limited

**Respondent
Represented by:
Mr N McDougall,
Advocate**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The judgment of the Tribunal is that:

1. The claimant's complaint of unfair dismissal does not succeed and is dismissed.
2. The claimant's complaint for wrongful dismissal is successful. The respondent was in breach of contract by dismissing the claimant without 10 weeks' notice. The respondent is ordered to pay to the claimant the net sum of Four Thousand, Nine Hundred and Forty Nine Pounds and Forty Pence (**£4,949.40**), being damages for the breach of contract.

REASONS

Introduction

1. This was a final hearing to consider the claimant's complaints of unfair and wrongful dismissal, which the respondent resisted. The respondent's position was that the claimant was fairly dismissed for gross misconduct.

2. The parties lodged a joint bundle of productions, extending to 553 pages.
3. The respondent led evidence from the following individuals:
 - 3.1. Melissa Kinahan (**MK**), Warehouse Manager;
 - 3.2. Karl Rice (**KR**), Distribution Centre Manager; and
 - 3.3. Steven Pitts (**SP**), Head of Operations.
4. The claimant gave evidence on her own behalf at the final hearing.

Issues to be determined

5. The only issues before the Tribunal were whether the claimant was unfairly or wrongfully dismissed by the respondent and, if so, what compensation should be awarded. The claimant confirmed at the commencement of the hearing that she sought compensation only.

Findings in fact

6. This Judgment does not seek to address every point about which the parties have disagreed. It only deals with the points which are relevant to the issues which the Tribunal must consider in order to decide if the claim succeeds or fails. If a particular point is not mentioned, it does not mean that it has been overlooked, it simply means that it is not relevant to the issues to be determined. The relevant facts, which the Tribunal found to be admitted or proven, are set out below.
7. The respondent operates a large-scale food storage and distribution network, providing food logistics and transportation for a number of fast food and chain restaurants.
8. The claimant was employed by the respondent as Transport Coordinator. Her employment commenced on 19 May 2015. She was based at the respondent's Larbert depot and her role involved managing daily transport operations, ensuring compliance, scheduling, driver support and record keeping.
9. The claimant reported to the Transport Manager. She previously worked in an office on her own. From in/around 2023, was asked to share that space with an Administrator, and then the Driver Trainer.
10. On 5 February 2025 the claimant attended work and found that the furniture and equipment in the office she shared with the Administrator and the Driver Trainer had been moved around. While she was aware of ongoing discussions about reconfiguring the office, she had not agreed to any proposals and was unaware that any changes would take place. She was not

happy with the new configuration (it was not finalised, but she was not aware of that). She, as she herself acknowledges, fuming/raging. When the Transport Manager arrived at 7am she raised concerns with him. He then went to his own office. The claimant then became upset (she stated in evidence that she was *'emotional, distraught and disgusted'*) and subsequently left work, without reporting to anyone that she was doing so. She then remained absent for over 2 weeks.

11. On 10 February 2025 MK was asked to investigate complaints made by the claimant. These included that the furniture in the office she worked in had been moved, without consultation with her, that the Transport Manager shouted at her every morning and didn't allow her to have an opinion, and the administrator had been employed to work 20 hours per week, but was working full time.
12. MK was asked to investigate those complaints. She commenced her investigation by interviewing the claimant on 18 February 2025. In the period from 24 -27 February 2025, MK interviewed 6 of the claimant's colleagues. A number of them made allegations in relation to the claimant, so the scope of the investigation was extended to include those matters also. On 3 March 2025, the claimant was suspended, pending the conclusion of the investigation in relation to the allegations against her. MK then met with 3 further witnesses. She conducted further investigation interviews with the claimant 11 April, and 14 & 30 May 2025. The claimant was accompanied by a trade union representative at each of the meetings in May 2025. At the meeting on 14 May 2025, it was noted that, in relation to the general allegation of bullying and harassment, there were 14 sub-allegations being investigated. They were listed and recorded in the minutes of that meeting.
13. On 28 May 2025, the claimant was provided with the outcome of the investigation into the complaints she had made. It was noted in that outcome that the claimant had not provided any clear examples of the Transport Manager shouting at her, although it was accepted that he had, on occasion, expressed frustration and raised his voice at matters unrelated to the claimant (for example, a driver calling in sick). Whilst this was not directed at the claimant, it was recommended that the Transport Manager undertake further training to ensure appropriate conduct in the workplace, despite any frustrations which he may experience. It was noted that the office redesign was not finalised and the claimant had been, and would continue to be, involved in the process.
14. On 30 May 2025 MK concluded her investigation into the complaints made against the claimant. She produced a report setting out the steps that she had taken during her investigation (interviewing the claimant (4 times) and 9 other individuals, and collating other relevant evidence). The report summarised the

evidence gathered and made recommendations. Notes of the interviews conducted with each individual, as well as the documentary evidence gathered, were appended to the report. The conclusion/ recommendation was that a disciplinary hearing be convened to consider allegations of gross misconduct in respect of non-compliance with the respondent's bullying and harassment policy, and misappropriation of charity funds.

15. KR was appointed as disciplinary hearing chair. He conducted a disciplinary hearing with the claimant on 16 June 2025. The claimant had been provided with the investigation report and all appendices to that in advance of the hearing. She was asked at the start of the meeting on 16 June 2025 whether she understood the allegations. She indicated that she did. The meeting was adjourned on a number of occasions and reconvened on 17 & 25 June, 7 & 9 July 2025. The claimant was accompanied by a trade union representative on each occasion.
16. When the disciplinary hearing reconvened on 25 June 2025, the claimant was informed that KR was satisfied that she had now provided sufficient information to disprove the allegation in relation to misappropriation of charity funds, and no further action would be taken in relation to that.
17. In relation to the allegations of bullying and harassment, as a result of concerns raised by the claimant during their discussion on 17 June 2025 (including that witnesses were colluding, and in relation to the standard of the investigation and statements), KR spoke to 15 colleagues, prior to the disciplinary hearing being reconvened again on 25 June 2025. He did so to satisfy himself in relation to the concerns raised by the claimant, and so that he could personally assess credibility, given the claimant's concerns. Notes of the discussions he had with each individual were provided to the claimant. She was then given the opportunity to review these and provide any comments, prior to a decision being made. She did so in writing, setting out her response to each. At the end of the discussion on 7 June 2025, KR indicating that he was adjourning to make a decision.
18. KR concluded that the witnesses he had spoken to were credible: they were able to answer his questions spontaneously, with a good level of detail and were honest about any details they may have been mistaken on or misremembered. He did not accept the claimant's assertion that the allegations were made as a result of collusion of a 'clique' of colleagues. He noted that 11 colleagues had given concerning accounts of the claimant's behaviour, and those colleagues held a range of roles (management, office, driver, the night warehouse team and a trade union representative). Taking into account all the circumstances, he concluded as follows:

- 18.1. That the claimant engaged in unacceptable behaviour in the office on the morning of 5 February 2025, when she stated that the Transport Manager was a 'fucking prick', that the Administrator was a 'fucking part-timer', and that the Driver Trainer's job was a 'fucking joke', before walking out of the office. He found the individual who reported that the claimant had done so to be credible and, in reaching that conclusion he took into account that a number of witnesses indicated that the claimant had said similar things about these individuals (as well as some others) in the past. He also took into account that there was a general consensus, among the individuals he interviewed, that the claimant preferred to be on her own in the office, considered herself to be management and often displayed intimidating or aggressive behaviour.
- 18.2. That the claimant engaged in conduct which he found to be bullying and harassment towards the Administrator, including calling her 'a fucking part-timer', a 'cow', 'Little Miss Perfect', 'it', 'that', a 'jobsworth' and stating that she is a waste of space and not good at her job. That the administrator was experiencing severe anxiety at the prospect of the claimant returning to work and others had concerns about the Administrator's health should the claimant return, or that she may simply leave.
- 18.3. That the claimant engaged in conduct which he found to be bullying and harassment towards the Driver Trainer, including stating that his job was made up, that she did not understand the purpose of his job, and that he did not know how to do his job.
19. KR concluded that these allegations amounted to gross misconduct. He noted that all staff, including the claimant (which he had checked), had recently engaged in mandatory e-learning in relation to the respondent's Bullying and Harassment Policy, which indicated that there would be zero tolerance of any such behaviour. He considered the appropriate sanction and noted that the claimant had not demonstrated any remorse, nor any recognition of her behaviour having an impact on others. He concluded that impact was significant. In those circumstances, where he felt the claimant would not take any steps to address or rectify her behaviour if she were to return to work, as she did not accept that she had done anything wrong, he concluded that it was untenable for her to return to the workplace. He accordingly concluded that the appropriate sanction was summary dismissal.
20. The disciplinary hearing reconvened for the final time on 9 July 2025. KR informed the claimant of his decision in relation to the allegations of bullying and harassment. He confirmed his decision and the reasons for his conclusions (as set out in the paragraph above), which were then also set out in writing, in a letter to the claimant, the following day. The claimant's salary,

at the time of the summary termination of her employment, was £30,865.50 (£494.94 net per week).

21. The claimant appealed against the decision to terminate her employment. SP was appointed to hear her appeal. He met with the claimant on 5 August 2025. The claimant was accompanied by her trade union representative. She read out a 4 page typed document (which she later sent by email to SP), setting out the basis for the grounds of her appeal, which she summarised as being:

21.1. That the outcome was prejudged and that little cognisance was taken of her evidence and accepting every negativity against her, even when faults in their evidence were highlighted;

21.2. Breaches of the respondent's and Acas policies;

21.3. That the hearing chair went out with his boundaries by engaging with a witness; and

21.4. That the punishment laid down was more than what is normal for a first offence and someone with 10 years' unblemished record.

22. Following the appeal hearing, SP considered each of the claimant's appeal points, with reference to the statements and evidence gathered, and reached the following conclusions in relation to the claimant's grounds of appeal:

22.1. The investigation was comprehensive and thorough. It included input from a wide range of individuals across the site. There was no indication that the outcome was prejudged. Whilst the claimant consistently denied any wrongdoing, and maintained that the information collected resulted from collusion and fabrication, there was no supporting evidence to substantiate that.

22.2. Correct and fair processes were followed. It was appropriate for KR to conduct further interviews with witnesses, in the circumstances of this particular case. All witness interviews were conducted appropriately.

22.3. Witnesses provided information freely, and had not been coerced or canvassed by others, or had words put into their mouths. While there were not two witnesses of any one specific occasion, many of the witnesses described similar situations.

22.4. The sanction was appropriate, particularly as the claimant had not shown remorse, dismissing her colleague's feelings as inconsequential. He considered the seriousness of the allegations, the weight of the evidence and the impact on colleagues, before concluding that he agreed with KR's decision that the claimant should be dismissed.

23. SP wrote to the claimant on 10 September 2025, confirming that he had decided to uphold KR's decision to dismiss the claimant. He set out his reasons for doing so, as recorded in the paragraph above.

Submissions

24. The respondent lodged a written submission, extending to 15 typed pages, which was read by the Tribunal and the claimant in advance. That submission summarised the relevant law over 9 pages. In the next 5 pages, the respondent invited the Tribunal to find that the respondent dismissed the claimant fairly for gross misconduct, taking into account the evidence heard. In relation to the wrongful dismissal complaint, the submission was brief, simply stating *'The Tribunal is invited to find that the claimant was in fundamental breach of contract because she engaged in bullying and harassing conduct. That conduct was sufficiently serious to merit summary dismissal.'*
25. The claimant gave an oral submission. In summary, she submitted that she was unfairly dismissed. She stated that she was not in work on 5 February 2025, and witnesses who were apparently present have denied hearing/seeing anything. There was accordingly no corroboration. The sanction was not normal for a first offence, for someone with 10 years' service. There were numerous procedural errors/irregularities, for example:
- 25.1. Witness statements were unsigned, rendering them inadmissible;
 - 25.2. She was not given a fair opportunity to respond to evidence;
 - 25.3. KR spoke to witnesses during the disciplinary process;
 - 25.4. She was not provided with all relevant policies and procedures, and could not access these during her suspension; and
 - 25.5. She understood that SP would reconvene the appeal hearing, but he did not do so: he simply issued his decision in writing.

Relevant Law

Unfair Dismissal

26. S94 ERA provides that an employee has the right not to be unfairly dismissed.
27. In cases where the fact of dismissal is admitted, as it is in the present case, the first task of the Tribunal is to consider whether it has been satisfied by the respondent (the burden of proof being upon them in this regard) as to the reason for the dismissal and that it is a potentially fair reason falling within s98(1) or (2) ERA.

28. Assessing the reason for dismissal involves considering the subjective state of mind of the employer. As Cairns L J stated in **Abernethy v Mott, Hay and Anderson** [1974] IRLR 213, (subsequently approved by Viscount Dilhorne and the House of Lords in the case of **Devis v Atkins** [1977] ICR 9620):

'A reason for the dismissal of an employee is set of facts known to the employer, or it may be beliefs held by him, which cause him to dismiss the employee. If at the time of his dismissal the employer gives a reason for it, that is no doubt evidence, at any rate as against him, as to the real reason, but it does not necessarily constitute the real reason. He may knowingly give a reason different from the real reason out of kindness or because he might have difficulty in proving the facts that actually led him to dismiss; or he may describe his reasons wrongly through some mistake of language or of law.'

29. If the Tribunal is satisfied of the reason for dismissal, and that the reason is a potentially fair reason, it should proceed to determine whether the dismissal was fair or unfair, applying the test within s98(4) ERA. The determination of that question (having regard to the reason shown by the employer):

"(a) depends 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

(b) shall be determined in accordance with equity and the substantial merits of the case."

30. Where an employee has been dismissed for misconduct, **British Home Stores v Burchell** [1978] IRLR 379 sets out the questions to be addressed by the Tribunal when considering reasonableness. They are as follows:

30.1. whether the respondent genuinely believed the individual to be guilty of misconduct;

30.2. whether the respondent had reasonable grounds for believing the individual was guilty of that misconduct; and

30.3. whether, when it formed that belief on those grounds, the respondent had carried out as much investigation as was reasonable in the circumstances.

31. The Tribunal then requires to consider whether the decision to dismiss fell within the range of reasonable responses available to a reasonable employer in the circumstances. In determining this, it is not for the Tribunal to decide whether it would have dismissed for that reason. That would be an error of

law as the Tribunal would have ‘substituted its own view’ for that of the employer. Rather, the Tribunal must consider the objective standards of a reasonable employer and bear in mind that there is a range of responses to any given situation available to a reasonable employer. It is only if, applying that objective standard, the decision to dismiss (and the procedure adopted) is found to be outside that range of reasonable responses, that the dismissal should be found to be unfair (***Iceland Frozen Foods Limited v Jones*** [1982] IRLR 439).

Wrongful Dismissal

32. Wrongful dismissal is a claim for breach of contract – specifically for failure to provide the proper notice. The Employment Tribunals Extension of Jurisdiction (Scotland) Order 1994 gives the Tribunal jurisdiction to consider breach of contract claims where the claim ‘*arises or is outstanding on the termination of the employee’s employment*’ (Regulation 3).

Discussion & Decision

Observations on Evidence

33. While the claimant asserted in her evidence and submissions that she had not been in the office on 5 February 2025, the Tribunal did not accept this to be the case: the note of the disciplinary hearing recorded that, in an adjournment after the hearing on 7 July 2025, KR checked the swipe card records and these demonstrated that the claimant swiped into work at 05:51 on 5 February 2025. Those notes were provided to the claimant, and she did not dispute that during the appeal process. In addition, it was not put to KR in cross examination that the notes he recorded in relation to this were incorrect.
34. The claimant’s cross examination of MK focused principally on the circumstances of the claimant’s suspension, with the claimant asserting that a colleague had driven 4.5 hours with the suspension paperwork in his car, so had known before he set off that he was to suspend the claimant. MK asserted that the decision was made when the colleague arrived, and she asked him to suspend the claimant as she knew he was there. The Tribunal concluded when the decision was made was irrelevant.

Unfair Dismissal

35. The Tribunal referred to s98(1) ERA. It provides that the respondent must show the reason for the dismissal or, if more than one reason, the principal reason for dismissal, and that it was for one of the potentially fair reasons set out in s98(2). At this stage the Tribunal was not considering the question of reasonableness. The Tribunal had to consider whether the respondent had established a potentially fair reason for dismissal.

36. The Tribunal concluded that the reasons why KR concluded the claimant should be dismissed were those set out in paragraph 18 above. Those were the facts/beliefs held by him, which caused him to reach the decision that the claimant should be dismissed. Those reasons related to the claimant's conduct, which is a potentially fair reason for dismissal, under s98(2)(b) ERA.
37. The Tribunal then considered s98(4) ERA. The Tribunal had to determine whether the dismissal was fair or unfair, having regard to the reason as shown by the respondent. The answer to that question depends on whether, in the circumstances (including the size and administrative resources the employer is undertaking), the respondent acted reasonably in treating the reason as a sufficient reason for dismissing the employee. This should be determined in accordance with equity and the substantial merits of the case. The Tribunal was mindful of the guidance given in cases such as ***Iceland Frozen Foods Limited v Jones*** that it must not substitute its own decision, as to what the right course to adopt would have been, for that of the respondent. There is a band of reasonableness within which one employer might reasonably dismiss the employee, whereas another would quite reasonably keep the employee on. If no reasonable employer would have dismissed, then dismissal is unfair, but if a reasonable employer might reasonably have dismissed, the dismissal is fair.
38. The Tribunal referred to the case of ***British Home Stores v Burchell***. The Tribunal was mindful that it should not consider whether the claimant had in fact committed the conduct in question, as alleged, but rather whether the respondent genuinely believed she had, and whether the respondent had reasonable grounds for that belief, having carried out a reasonable investigation.

Did KR have a genuine belief that the claimant was guilty of misconduct?

39. The Tribunal concluded that KR did have a genuine belief that the claimant had committed each of the allegations of misconduct which he held to be substantiated. He was a clear and credible witness. The Tribunal accepted his evidence in relation to this.

Did KR have reasonable grounds for his belief?

40. KR reached his conclusion that the claimant had committed the misconduct asserted for the reasons set out in paragraph 18 above. The Tribunal concluded he had reasonable grounds for that belief: it was based on the evidence gathered in the investigation conducted by MK, as well as his own additional investigation, to test the veracity of that information and the credibility of the witnesses. He undertook that additional investigation as the claimant had denied the allegations and asserted that there was collusion between a 'clique' of individuals. He concluded, having done so, that he did not accept the claimant's

assertion and that he found the witnesses to be credible. He accepted their evidence.

Was there a reasonable investigation?

41. The Tribunal concluded that the respondent conducted a thorough and balanced investigation. The steps that MK took are set out in paragraphs 12-14 above. She gathered all the relevant evidence in relation to the allegations. She prepared a detailed investigation report, which set out the findings of her investigation. She appended notes of the numerous interviews conducted, and the documentary evidence gathered, to her report. There were no further steps which should, reasonably, have been undertaken during the investigation. KR re-interviewed witnesses, and interviewed further witnesses, in response to specific concerns expressed by the claimant during the disciplinary process. Principally to satisfy himself regarding their credibility, given the claimant's assertion that the allegations were fabricated by a clique. It was appropriate for him to interview witnesses himself in these circumstances.

Procedure

42. The respondent investigated the allegations against the claimant. They informed her of the allegations and the potential consequences and provided copies of the evidence compiled. The claimant was given the opportunity to respond to the allegations at the disciplinary hearing and was provided with the opportunity to appeal. She was accompanied by a trade union representative at the disciplinary & appeal hearings (as well as the later investigation meetings). The respondent followed their internal procedures. The Tribunal found that the procedure adopted by the respondent was fair and reasonable in the circumstances.
43. Whilst the claimant raised in submissions that she was not provided with policies and not able to access these during her suspension, there is no evidence of her, or her trade union representative, stating this to the respondent, or requesting these from the respondent, at any stage during the process. Further, given that she was represented by her trade union from May 2025, any policy/procedure which she felt at the time that she did not have, could have been readily obtained by them.
44. The claimant also raised in submissions that witness statements were not signed. The statements taken by MK, which were relevant to the bullying and harassment allegations, were signed by the relevant witnesses. While those collated by KR were not signed, some stated they were confirmed via email (as they were typed, rather than handwritten) and others, which were less than a page with only a few questions asked, recorded that the individual did not wish to review the notes. The claimant was provided with those notes prior to a

decision being made at the disciplinary stage. In those circumstances, the Tribunal concluded that the procedure adopted was reasonable and did not undermine the fairness of the process.

45. In submissions the claimant also stated that she had understood that SP would reconvene the appeal hearing. Whilst that may have been her understanding, that did not undermine the fairness of the process. It is clear that she was given the opportunity to appeal and attended an appeal hearing at which she was given an unrestricted opportunity to set out the basis for her appeal. She did so, reading out a pre-prepared document, which she later lodged with the respondent. That was considered by SP, when reaching his decision.

Did the decision to dismiss fall within the band of reasonable responses?

46. The Tribunal then considered whether the decision to dismiss the claimant, as a result of the identified misconduct, fell within the range of reasonable responses available to a reasonable employer in the circumstances.
47. As set out in paragraph 19 above, KR concluded that, as the claimant had not demonstrated any remorse, nor any recognition of the significant impact of her behaviours on others, she would not take any steps to address those behaviours should she return to work. That rendered her continued employment untenable. In these circumstances, he concluded that the only viable option was dismissal.
48. It cannot be said that no reasonable employer would have dismissed the claimant in these circumstances. The Tribunal accordingly found that KR's conclusion to dismiss the claimant fell within the band of reasonable responses open to the respondent in the circumstances.

Conclusions re s98(4)

49. For the reasons stated above the Tribunal concluded that the respondent acted reasonably in treating the claimant's conduct as a sufficient reason for dismissal. The claimant's dismissal was accordingly fair.

Wrongful Dismissal

50. The Tribunal then considered whether the respondent has demonstrated that the conduct of the claimant should, objectively, be treated as so undermining the trust and confidence which was inherent in her contract of employment, such that the respondent could no longer be required to keep her in their employment.
51. Throughout the respondent's internal process, and in her evidence to the Tribunal, the claimant has consistently denied the allegations against her. Witnesses for the respondent at the Tribunal hearing included the investigation, disciplinary and appeal managers, but no other witnesses. While notes of

meetings with relevant witnesses were included in the papers before the Tribunal, and were spoken to in evidence by those investigating as what they were told by certain individuals, none of those individuals gave evidence in relation to what, in fact, happened. The evidence of those individuals was not tested under cross examination.

52. The Tribunal's approach in relation to a wrongful dismissal complaint is not the same as in a complaint of unfair dismissal. It is not sufficient for the employer to demonstrate a reasonable belief that the employee was guilty of gross misconduct. They must establish that the claimant did, in fact, commit a repudiatory breach of contract entitling them to summarily dismiss the claimant from their employment. The respondent did not lead sufficient evidence to demonstrate this. The Tribunal accordingly conclude that the claimant was wrongfully dismissed.
53. The claimant had a statutory minimum period of 10 weeks' notice from the respondent, given her length of service. Her net weekly pay, at the time her employment terminated, was £494.94. Accordingly, the Tribunal orders the respondent to pay to the claimant the sum of 4,949.40, as damages for breach of contract.

Date sent to parties

18 September 2026