



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr T Johnson  
**Respondent:** Weidmann Whiteley Limited  
**Heard at:** Leeds **On:** 16 and 17 January 2017  
**(deliberations)** 7 February 2017  
**Before:** Employment Judge Rogerson  
**Representation**  
**Claimant:** Mr K McNerney, Counsel  
**Respondent:** Mr J Briggs (Managing Director)

## RESERVED JUDGMENT

1. The Claimant's complaint of unfair dismissal fails and is dismissed.
2. The Claimant's complaint of wrongful dismissal fails and is dismissed.

## REASONS

### 1. The issues

- 1.1. The Claimant brings complaints of unfair dismissal and wrongful dismissal. For the wrongful dismissal complaint, the issue is whether the Claimant was guilty of conduct which was a repudiatory breach of contract, which entitled the Respondent to dismiss summarily. The repudiatory conduct relied upon by the Respondent is that the Claimant misled senior management which resulted in loss of trust and confidence in the employment relationship. I would have to determine whether the Claimant was in fact guilty of any alleged misconduct as part of my fact finding for the wrongful dismissal complaint.
- 1.2. For the unfair dismissal complaint the issues were identified at the beginning of the case. The first issue was to identify the reason for dismissal? It was for the employer to show the reason for dismissal and that it is one of five potentially fair reasons for dismissal. The principal reason relied upon by the Respondent was the Claimant's alleged misconduct in misleading senior management which resulted in the loss of trust and confidence in the employer/employee relationship.
- 1.3. For conduct dismissals to be fair the employer must genuinely believe that the Claimant is guilty of the alleged misconduct. On a neutral burden of proof, that belief has to be based on reasonable grounds and a reasonable investigation?
- 1.4. Section 98(4) of the Employment Rights Act applies which provides that where the employer has fulfilled the requirements of subsection 1, the

determination of the question whether the dismissal is fair or unfair (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.
- 1.5. The band of reasonable responses applies to the sanction imposed by the employer as well as to the investigation. Some employers might not dismiss in these circumstances and some employers might. The question was whether dismissal in these particular circumstances fell within the band of reasonable responses for this employer. It was not for me to substitute my view for the employers in relation to the unfair dismissal complaint.
- 1.6. The Respondent also referred to the ACAS Code of Practice on Disciplinary and Grievance Procedures (2015). Paragraph 9 of the Code is about informing the employee of the problem and provides that "the notification should contain sufficient information about the alleged misconduct or poor performance and its possible consequences to enable the employee to prepare to answer the case at a disciplinary meeting. Paragraph 27 of the Code deals with appeals and states that the appeal should be dealt with impartially, and wherever possible by a manager who has not previously been involved in the case.
- 1.7. The Claimant relies on paragraph 6 of the Code which provides that in misconduct cases, **where practicable**, different people should carry out the investigation and disciplinary hearing. Paragraph 5 of the Code also deals with "establishing the facts of each case" and provides that it is important to carry out necessary investigations of potential disciplinary matters without unreasonable delay to establish the facts of the case.
- 1.8. Those were the legal principles, the applicable codes of practice and the questions for me to consider after making my findings of fact. For the Respondent I heard evidence from Mr J Briggs, Managing Director and Appeals Officer and Mr S Hetlof (Engineering Manager). Notably I did not hear any evidence from the dismissing officer, Mr B Wallis, the Operations Director who the Respondent had chosen not to call as a witness. For the Claimant, I heard evidence from Claimant only. I saw documents from an agreed bundle of documents and from the evidence I saw and heard I made the following findings of fact.

## **2. Findings of Fact**

- 2.1. The Respondent is a manufacturing company employing a 115 people based at Pool near Otley. The company's manufacturing facilities comprise a paper mill and a components workshop.
- 2.2. The parent company is based in Switzerland and employs 20 staff. I accepted Mr Briggs evidence that there is no day to day control or influence over the Respondent's operation at Pool which is run in effect as a separate entity and is managed by the senior management team of 3.

- 2.3. In September 2015, the Claimant was promoted to the position of site production manager. He was the third most senior member of the management team with Mr Briggs as the managing director and Mr Wallis as the operations director. The intention was that when Mr Willis retired the Claimant would step into his shoes and take over as the Operations Director.
- 2.4. The Claimant had almost 30 years service with the Respondent and was a highly regarded and valued employee.
- 2.5. The promotion is described by the Claimant as a significant change to his role which involved responsibility for managing three departments and overseeing all production manufacturing and management issues within those three departments. He understood that he was a critical part of the senior management team.
- 2.6. The Respondent deals with HR issues internally with access to an external HR consultant as and when required.
- 2.7. Mr Briggs took over responsibility for HR and HR training, when the employed HR officer retired. The 'management team' carried out the HR function for the company.
- 2.8. As a result it was common practice for either Mr Wallis or the Claimant to deal with disciplinary and investigation stages so that Mr Briggs could deal with any appeals. This meant that more often than not the investigation was conducted by the disciplinary officer.
- 2.9. This was true for the 50 or so cases in which the Claimant had acted as the investigating officer and the disciplinary officer. An example of this was in the bundle at page 189.
- 2.10. Mr Briggs explained that in August 2015 after a Tribunal claim involving an employee dismissed by the Claimant it was decided to make the letters advising of the potential outcomes clearer because it had been found that they had not done so in that case. The relevance of this is that the Claimant complained that the invitation letter advised him of potential outcomes which indicated the decision had been pre-judged when he clearly knew that was not what it meant.
- 2.11. On Monday 7 March 2016, at the daily production meeting held at 10am, Mr Briggs, became aware that the paper making machine had run into quality issues over the weekend and had to be shut down for cleaning. Mr Hetlof, the engineering manager explained this meant that 77,000, 3mm holes had to be drilled out to get the machine back into production.
- 2.12. Mr Hetlof was present at this meeting as was the Claimant and Mr Bill Wallis. By Monday morning this issue was causing a very expensive shutdown and every hour of the shutdown caused a loss of revenue to the business of £3,000.
- 2.13. It was obvious the cleaning of the machines was a priority and it would not be finished during the day shift from 5.30am to 5.30pm which Mr Wallis was overseeing. It would need to be continued and finished during the night shift from 5.30pm to 5.30am, which the Claimant agreed to oversee.

- 2.14. It was agreed that Mr Wallis would continue overseeing the remedial work in the day shift, the Claimant would go home, get some sleep and return for shift changeover to ensure that the night shift were working to the correct method and that the appropriate speed given the cost to the business of the shutdown. Shift changeover is at 5.30pm.
- 2.15. Surprisingly, given that the Claimant is claiming wrongful dismissal he gives no account in his witness statement of the events of 7 and 8 March 2016. His witness statement starts with the invitation to the disciplinary hearing which was handed to him on 16 March 2016.
- 2.16. In contrast Mr Briggs' account is set out at paragraphs 7, 8 and 9 which was corroborated by Mr Hetlof. I accepted their accounts of those events.
- 2.17. For example, Mr Hetlof corroborates Mr Briggs' evidence that the Claimant had agreed to take over on the handover to oversee the operation and to ensure that the night shift were working to the correct method and at the appropriate speed. It would have been clear to the Claimant at that morning production meeting how critical it was to get the production processes restarted and the importance of his role in that process. Mr Hetlof made the point that the handover was important to make sure there was continuity of work when the night shift came in. That was the course of action agreed at the production meeting, as the best way to keep the job going.
- 2.18. On the following morning 8 March 2016, whilst Mr Hetlof was speaking to the Claimant, Mr Wallis asked the Claimant about the progress that had been made and about some money he had left for the Claimant to give the shift, to buy some food. It was clear to Mr Hetlof that Mr Wallis was not happy with the progress that had been made by the night shift but he did not witness the rest of the conversation between the Claimant and Mr Wallis which is relevant to the allegation of misleading management.
- 2.19. Mr Hetlof was able to tell me about a previous occasion when the Claimant had also claimed to have worked late the previous evening which was untrue which he has referred to in his witness statement. On that occasion Mr Hetlof challenged the Claimant because the Claimant had been "nowhere to be seen" and he believed it was a blatant lie. The Claimant got ruffled and later apologised. Mr Hetlof had a very clear recollection of this incident and confirmed that his account was 'absolutely true'. In contrast when I asked the Claimant questions about this incident he said he had no recollection of the incident. I preferred Mr Hetlof's evidence and accepted that there had been a previous occasion shortly before this incident when the Claimant had said he had been working late when in fact he had not.
- 2.20. On 9 March 2016, Mr Briggs recalls Mr Wallis telling him he thought that the Claimant had not been straight with him about the management role he had exercised on 7 March. He told Mr Briggs the Claimant had told him he had stayed on site until 2am on 8 March. There had been a subsequent conversation with the shift supervisor in which Mr Wallis had been told the Claimant had left at about 8.30pm.
- 2.21. Mr Briggs suggested that Mr Wallis speak to the Claimant so that he could put his "concerns to rest" and he suggested that Mr Wallis check

the CCTV footage. Mr Wallace also had some performance concerns about the Claimant and Mr Briggs suggested he put them all in writing to the Claimant and have a meeting. Mr Briggs was not expecting anything other than the concerns to be 'put to rest' once Mr Wallis had spoken to the Claimant.

- 2.22. Mr Wallis prepared a letter which he handed to the Claimant on 16 March 2016, suspending the Claimant and inviting him to a disciplinary hearing on 21 March 2016. The letter sets out 10 allegations relating to performance and conduct which Mr Wallis wanted to discuss with the Claimant. Against each allegation is an explanation of the allegation setting out the information Mr Wallis had relating to the performance or conduct issue. This was so that the Claimant knew exactly what he was going to be questioned about and why.
- 2.23. Interestingly, the Claimant has produced a copy of the letter in the bundle with his annotations on it at pages 27 to 29. The letter raises 10 concerns of performance and conduct and the tenth issue is "misleading senior management". There is also an issue regarding cash advances including the £70 for food which was given to the Claimant when only £60 was accounted for.
- 2.24. Mr Briggs' evidence which I accepted was that the Claimant would not have been dismissed if he had not been found guilty of lying to senior management which was the most serious of the 10 allegations. The letter refers to the senior management role that the Claimant holds and how seriously the company viewed the allegations. Although potential 'disciplinary action' is referred to there is no reference made to dismissal as a potential outcome, even though the Claimant's case is that this reference to disciplinary action means his dismissal was prejudged.
- 2.25. Given the Claimant's seniority, as the third most senior person in post and the importance of trust and confidence within such a small team it is difficult to see how the Claimant would not have known that dismissal could be a potential outcome if he was found to have misled senior management.
- 2.26. The lack of any annotation on the letter, in relation to that allegation is interesting to note. Whereas on the other allegations the Claimant makes comments. He doesn't put his account or comment against allegation 10, to dispute what Mr Wallis had said. This would have been his first opportunity to provide his account of 7 or 8 March on that letter but he makes no comment. That was just as surprising as the fact that he gives no account of his actions on those dates in his witness statement either.
- 2.27. The next stage was a disciplinary meeting held on 21 March 2016 when the Claimant was accompanied by a work colleague and Mr Wallis had a note taker. The minutes the Claimant kept of that meeting are at pages 108 to 110 of the bundle and were not disputed.
- 2.28. The first matter discussed was the allegation that the Claimant had used the company account to hire cars for personal use from 'Enterprise' and that account had not been settled by the Claimant. It was accepted at this hearing that the Claimant has not paid the Respondent for his own personal use of a hire car. The Claimant's

annotation on the letter states “one John ok’d it and the remaining two are pending”.

- 2.29. At the disciplinary hearing Mr Wallis produced a monthly statement from Enterprise showing that as of April 2016, the Claimant had not paid for the vehicles that he had hired for his own personal use instead using the company’s account. In relation to one of those hires on 23 November 2015, the company had paid the invoice and the Claimant had not repaid that money. Mr Wallis reminded the Claimant that the unpaid Enterprise invoices had been raised with him in January 2016 when he had assured Mr Wallis that they would be sorted out and that had not happened.
- 2.30. Despite the Claimant knowing that the one paid by the company should not have been paid he states “I recall that was a trip to see a customer”. He refers in his own notes to a business trip to Stafford. Mr Wallis to his credit accepted the explanation given by the Claimant at face value for that invoice even though the Claimant had not been truthful. It wasn’t a trip to see a customer the car was hired for the Claimant’s own personal use.
- 2.31. The Claimant blamed Enterprise for not supplying the correct credit notes for the hires but whatever the actual figure was and even if he was in dispute with Enterprise he had not paid the invoices.
- 2.32. Mr Wallis interrupted the meeting to ring Enterprise and they confirmed to him that there was no record of any credit note.
- 2.33. On this very first issue Mr Wallis explained to the Claimant that the ‘essence’ of this was trust and the trust that he would have to have with a senior manager.
- 2.34. By the date of this hearing the Claimant has still not paid the company for any of the hires of the vehicles even though they were for his personal use and even though the late payment reflected badly on the company’s credit rating. His lack of contrition or concern was demonstrative of his general approach to the Respondent.
- 2.35. The Claimant’s approach at the disciplinary hearing and subsequently was not to address these concerns rectify them and offer any apology. He was deliberately evasive and unhelpful and was not truthful in the account he gave to Mr Wallis.
- 2.36. Mr Wallis says specifically to the Claimant “*if you were vindicated, if you were sat here with all the receipts then I would have to walk away and say I made a mistake. That is the point of a disciplinary. Trust me I take no pleasure from this so I suggest you think about that*”.
- 2.37. Mr Wallis quite rightly adjourned the hearing to give the Claimant the opportunity to gather the necessary evidence. The Claimant had been given that opportunity prior to the meeting and was unhappy about the adjournment.
- 2.38. On 24 March 2016, the disciplinary hearing was reconvened. The Claimant does not offer to pay the invoice nor has he paid it in the intervening period. He doesn’t confirm that the invoice paid by the company had been paid in error and is money he owed the company.

- 2.39. Mr Wallis states again the need to have faith in the Claimant. He talks through the items, some related to performance some relating to conduct and asked the Claimant to explain his position. It is clear that there is an issue raised about cash advances because one of the allegations refers to four occasions in the last year when the Claimant had claimed expenses (for petrol or postage) without submitting receipts. Additionally on 8 March it was alleged that the Claimant had provided receipts and change totalling £60 when Mr Wallis had advanced him £70 in order to buy food provisions for the night staff because of the work they were undertaking, leaving a missing £10.
- 2.40. There were other conduct issues raised in the allegations of the Claimant taking more holidays than he was entitled to, swearing at a HSEQ manager when he had been asked not to smoke in his car. However it was the 'misleading of senior management' which was the critical issue for Mr Wallis. He tells, the Claimant how important this issue was to him and he wants to give the opportunity of explaining this. When Mr Wallis puts to the Claimant the evidence that he had gathered during his investigation the Claimant's response was to refute this. He claimed that he had arrived on site between 18.15 and 18.30 and left at 21.00 and denies that he had ever claimed to be on site until 02.00 on 8 March 2016.
- 2.41. There is a clear conflict of evidence between the information that Mr Wallis has which he refers to in his letter. Which was – *“that you arranged with me that you would work on the night shift on 7 March 2016 and on the subsequent morning you told me that you had been at work until 2am the following morning when CCTV footage shows that you left site at 20.30 hours in the evening – that on 8 March you told me you arrived on site 06.30 but you could not be contacted before 08.30. Given your senior management role within the comment you need to be aware the company views this issue very seriously and is concerned both that your general performance has been lacking in many areas and also that your conduct has not befitted someone of your senior position, who we would expect to be setting an example to his work colleagues”*.
- 2.42. It could not be clearer to the Claimant that he was expected at this hearing to give his full version of events.
- 2.43. There is a clear conflict of evidence before Mr Wallis as to what the Claimant had told him and the other information he had discovered subsequently. That was an issue of faith and trust and he wanted to give the Claimant the opportunity to reflect and adjourned the meeting in order for the Claimant to do so. Unfortunately for the Claimant after that adjournment his position was the same and he confirmed that he had nothing further to say.
- 2.44. On 24 March 2016, the Claimant received a letter of dismissal confirming the decision Mr Wallis had communicated at the end of the hearing. The letter confirms Mr Wallis' reasons as follows:  
*“That my concerns around your performance were not adequately addressed by you during our meeting. In particular I have reason to believe that you have given me misleading information regarding your actions and activities (I refer to clause 10 of my letter) and as a result of*

*this I no longer feel that there can be any trust between us in our working relationship”.*

- 2.45. Mr Wallis had by this time carried out an investigation, he had reviewed the CCTV footage which showed the Claimant’s arrival at 19.28 and departure at 20.51. He had provided the Enterprise invoices and adjourned the meeting for the Claimant to obtain further information and had given the Claimant during the two hearings the opportunity to provide a detailed explanation of the events as he saw them for 7 and 8 March 2016. It is noted that in the Claimant’s notes of that hearing his explanation is recorded as:

*“I arrived at 6.15 to 6.30 and I would say I left about 9 but at no point did I ever say that I left at 2 in the morning. I might have said to you that I left the premises afternoon at 2”.*

When questioned further the Claimant’s response was *“I have nothing else to say”.*

That explanation does not address the CCTV footage records which the Claimant was unable to explain at this hearing. Mr Wallis refers to the fact that the Claimant had not given a transparent answer to any of the issues in front of him.

- 2.46. Based on the evidence I heard and the Claimant’s demeanour at this hearing I have to agree with Mr Wallis’ findings as to the Claimant’s lack of transparency. At this hearing the Claimant was evasive, his evidence changed as he went along, he gave different accounts for the Enterprise use and when he finally accepted he owed the company money, he couldn’t explain why he had not repaid it, or settled the outstanding invoices so as not to impact upon the company’s credit.
- 2.47. There was one other piece of evidence in relation to the Claimant’s witness evidence before me which was of concern. The Claimant confirmed that there had been a competition cash prize for the ‘best idea’ given by an employee. He was pictured with that employee handing over an envelope. That envelope did not contain the cash prize that the employee was entitled to. The Claimant’s account was that he had removed the cash but he couldn’t recall why and the employee didn’t receive an envelope with any money which is why that employee ended up complaining to the company. This was another example of the Claimant lack of credibility. I did not find that he was a reliable witness and where there was a dispute of fact between the Respondent’s witnesses and the Claimant I preferred the Respondent’s evidence.
- 2.48. The Claimant appealed against his dismissal.
- 2.49. Mr Briggs wrote to the Claimant inviting him to an appeal hearing. In preparation for the appeal hearing, Mr Wallis read the notes taken by the company and reviewed the documents available at the time. He went through the minutes noting any discrepancies or issues arising from the Claimant’s answers.
- 2.50. At that appeal hearing the Claimant’s position was that Mr Wallis could not investigate and chair a disciplinary meeting and he states *“I have got you already”.*



- 2.51. It appears that the Claimant has placed much reliance in this case on the fact that Mr Wallis was the investigating officer and the disciplinary officer to argue his dismissal was therefore unfair.
- 2.52. As a result of the issue the Claimant raised Mr Briggs decided that he would adjourn the meeting to carry out some investigations. He asked Mr Wallis to prepare a statement setting out his involvement in this matter and having read that statement he was satisfied that Mr Wallis had disclosed the investigation that he had carried out to the Claimant. It was disclosed to the Claimant at the disciplinary hearing and in the letter. Mr Briggs also questioned Mr Wallis about the discrepancy between the £70 Mr Wallis said he handed to the Claimant to buy food and the Claimant's account that it was £60. Mr Wallis confirmed it was £70 and Mr Briggs checked the note in the daily diary which also referred to the Claimant giving £60 to the shift personnel to buy food.
- 2.53. Mr Briggs also read the ACAS codes and he was satisfied the Claimant had been given sufficient information about the alleged misconduct and poor performance issues to enable him to answer the case at the disciplinary hearing.
- 2.54. Mr Briggs invited the Claimant to a further appeal hearing on 29 April 2016 having satisfied himself that Mr Wallis had not in any way acted inappropriately as the investigating officer.
- 2.55. That appeal hearing on 29 April 2016, was a further opportunity for the Claimant to give a full account of his actions on 7 and 8 March 2016. The hearing was a very lengthy hearing. The Claimant has transcribed the notes and it was clear from my reading of those notes that the Claimant had every opportunity to say what he wanted to in his defence and mitigation.
- 2.56. By a letter dated 29 April 2016, the outcome of the hearing is sent to the Claimant and Mr Briggs confirms the decision to dismiss.
- 2.57. The relevant part of the letter states "*we told you that we believed that at his second meeting with you Bill was telling you that, although there were performance aspects that concerned him, his main issue was that the relationship of trust between you had broken down. This was based on a discussion with you where he was led to believe that you had been on site for around 6.30pm on 7 March until 02.00am 8 March but then found from third parties that your attendance had been limited to 7.30pm to 9pm. At the same time an amount of cash that he had left with you had been unaccounted for and the quick combination of the two events made him believe that he needed to formally discuss these outings with you. After his two meetings with you he felt that you had not given any substantive reason to repair the relationship of trust between you. In the second meeting he says there appears to be no transparent answer to any of the issues for me. Therefore he dismissed you. In the appeal meeting we have to decide whether Bill made an error in that judgment. During our meeting we felt that there was a lack of evidence to refute points Bill had made and there were inconsistencies in your answers to:*
- ◆ *The time you arrived on site on 7 March, the reason for coming on site, the time you left site on 7 March, the time you arrived on site on 8 March*

- ◆ *What happened to the cash left for food for the crews and what exactly was discussed between you and Bill.*

*Therefore we have no reason to believe that Bill had made the wrong decision and as a result we upheld the original dismissal decision”.*

### **3. Conclusions**

- 3.1. Dealing first of all with the wrongful dismissal complaint, the question for me to answer was whether the Claimant guilty of a repudiatory breach of contract which entitled the Respondent to dismiss him summarily.
- 3.2. The critical conduct relied upon here was misleading senior management which was a serious issue of trust. I agreed with Mr Wallis’s findings that the Claimant had deliberately misled Mr Wallis and the account he gave to Mr Wallis was not credible or true. He wasn’t transparent in his responses and misled Mr Wallis on the Enterprise issue when he knew the car was hired for his own personal use but let Mr Wallis believe it was work related. To his credit and without any evidence Mr Wallis accepted what the Claimant told which showed that he had kept an open mind and was willing to listen to anything the Claimant had to say in his defence or mitigation.
- 3.3. Unfortunately, the Claimant was not credible throughout the disciplinary hearing and Mr Wallis was entitled to conclude that he had misled senior management which was the critical issue that went to the heart of the employment relationship.
- 3.4. The CCTV footage and the Claimant’s explanation for the statement that he had been there until 2 by referring to the previous day were not plausible. I agreed with Mr Wallis’ findings that the Claimant had misled the senior management team and he was guilty of a repudiatory breach of contract. At this hearing I also had the evidence of a previous occasion when the Claimant had said that he was attending work when he was not and an occasion where the Claimant had removed cash from an envelope intended for an employee. Those two issues also go to the Claimant’s credibility and supported my view that Mr Wallis had reached the right conclusion as to the Claimant’s repudiatory conduct.
- 3.5. As to the unfair dismissal, I was satisfied Mr Wallis at dismissal and Briggs at Appeal genuinely believed the Claimant’s was guilty of the alleged misconduct. Mr Wallis had reasonable grounds for that belief and had carried out a reasonable investigation at the time he reached that belief. The dual role that the Claimant complained about is something that the Claimant himself had carried out and is a criticism that may be valid depending on how the investigation is actually conducted by the disciplinary officer when he is performing that dual role. However it was clear from Mr Wallis’ approach in suspending the meeting on 21 March that he hadn’t made up his mind. He rings Enterprise and he adjourns the hearing because he wanted to give the Claimant a further opportunity to produce evidence or explain his actions to reassure him that this was not a case of misleading senior management.
- 3.6. Mr Briggs at the Appeal Stage does the same. He doesn’t just accept what Mr Wallis tells him at face value. He questions Mr Wallis about

what he did and gets him to provide a statement covering his role in the investigation and disciplinary process. That information was consistent with the information provided to the Claimant at the time. If it had not been Mr Briggs would have dealt with that appropriately.

- 3.7. It was clear that the information that required to answer the allegation of misleading senior management was a truthful and honest account from the Claimant to explain his actions on the 7<sup>th</sup> and 8<sup>th</sup>, which could only come from one source, the Claimant. At the Appeal stage, Mr Briggs identified a number of inconsistencies in the account the Claimant had given at the disciplinary hearing and gave the Claimant a full opportunity at the appeal hearing to answer those points. Mr Briggs based on reasonable grounds and a reasonable investigation confirmed the decision to dismiss.
- 3.8. This is a small company in terms of its management resources and it was reasonable for Mr Briggs to keep himself out of the picture until the appeal hearing and for him to conduct the appeal hearing. It was reasonable for Mr Wallis to conduct the investigation and the disciplinary hearing. He conducted those processes in a reasonable and fair manner. The downfall for the Claimant has not been caused by the actions of Mr Briggs or Mr Wallis, but was as a result of his own conduct which has resulted in the loss of trust and faith. It is unfortunate when the Claimant was clearly held in such high regard by Mr Wallis and viewed as his 'heir apparent'. It was clear from the transcript that this was a very difficult decision for Mr Wallis to make and one he made reluctantly. The decision to dismiss fell within the band of reasonable responses.
- 3.9. In those circumstances therefore the Claimant's complaints of wrongful and unfair dismissal fail and are dismissed.

Employment Judge Rogerson

Date 01 March 2017

Date sent on 02 March 2017