Case Number: 2301230/2017

THE EMPLOYMENT TRIBUNAL

SITTING AT: **LONDON SOUTH**

BEFORE: **EMPLOYMENT JUDGE MORTON**
(Sitting alone)

BETWEEN:

Miss L Kaziboni **Claimant**

AND

EDF Energy plc **Respondent**

ON: **25 August 2017**

Appearances:

For the Claimant: **In person**

For the Respondent: **Mr R Cochrane (Counsel)**

JUDGMENT

The judgment of the Tribunal is that the Claimant was fairly dismissed by the Respondent. The Claimant's claim of unfair dismissal is therefore dismissed.

REASONS

1. By a claim form presented on 2 May 2017 the Claimant brought to the tribunal a claim of unfair dismissal. She sought the remedy of reinstatement or re-engagement. The claim was resisted by the Respondent.

2. The Respondent's witnesses were Peter Ashley, who took the decision to dismiss the Claimant and Selina Shaw, who dealt with Claimant's appeal against her dismissal. The Claimant gave evidence on her own behalf and had no other witnesses. All three witnesses had produced written statements, which

I read before the evidence commenced and there was a bundle of documents amounting to 237 pages. References to page numbers in this judgment are to page numbers in that bundle.

The issues

3. After reading the witness statements and before starting the oral evidence I explained to the Claimant the issues that arise for determination by the Tribunal in a case involving allegations of misconduct. Firstly, did the Respondent have a potentially fair reason to dismiss the Claimant? The reason relied upon is the Claimant's misconduct in being persistently late in 2015 and 2016.

4. Did the Respondent act reasonably within the meaning of s 98(4) Employment Rights Act 1996? In particular did the Respondent hold a reasonable belief in the Claimant's lateness based on reasonable grounds after carrying out a reasonable investigation?

5. Was the Respondent's decision to treat the persistent lateness as a reason to dismiss the Claimant one that was open to a reasonable employer? Could it be said that no reasonable employer would dismiss in these circumstances?

6. Was the procedure followed by the Respondent a fair procedure that was compliant with both its own written procedures and the requirements of the ACAS Code of Practice? If the procedure was unfair, did the unfairness make any difference to the outcome of the proceedings?

7. If the dismissal was unfair did the Claimant's lateness contribute to her dismissal and if so would it be just and equitable to reduce any compensation payable to her and if so by what percentage?

Relevant law

8. The relevant law is set out in Section 98 ERA. It is for the Respondent to show that there was a potentially fair reason to dismiss an employee. In this case the Respondent relies on the Claimant's conduct in being persistently later for work. Misconduct is a potentially fair reason to dismiss under section 98(2)(b) ERA. The question of whether the Respondent is entitled to rely on the alleged misconduct to dismiss the Claimant fairly involves consideration of the test in *British Home Stores v Burchell [1980] ICR 303* namely whether the Respondent at the time of the dismissal had a reasonable belief in the employee's guilt based on reasonable grounds after conducting such investigation as was reasonable in the circumstances.

9. Further issues then arise under section 98(4) ERA which provides that the question of whether the dismissal was fair or unfair involves considering whether, having regard to the reasons shown by the Respondent, in all the circumstances of the case, including the size and administrative resources of the Respondent's undertaking, the Respondent acted reasonably or unreasonably in treating the reason relied on as a sufficient reason for

dismissing the Claimant. The question must be determined in accordance with equity and the substantial merits of the case. The case of *Iceland Frozen Foods v Jones [1982] IRLR 439* states that the Tribunal must not, in reaching a decision on the reasonableness of the Respondent's decision to dismiss, substitute its own view as to what it would have done in the circumstances. Instead it must consider whether the Respondent's response fell within a band of responses which a reasonable employer could adopt in such a case.

Findings of fact

10. I reach the following findings of fact based on the documents, the witness statements and the oral evidence presented at the hearing. In these findings of fact I have considered in some detail the Claimant's disciplinary history and the matters leading to the two 12 month warnings that preceded her dismissal. I am aware that Tribunals should not ordinarily seek to reopen or look behind a history of warnings unless there is clear evidence that these are manifestly unreasonable. In this case however the Claimant submitted that the Respondent had treated her unreasonably by simultaneously subjecting her to disciplinary action and providing her with support through occupational health. In my view it was therefore necessary to consider whether the disciplinary process was unfair from the outset and whether an unreasonable decision at an earlier stage had tainted the ultimate dismissal decision.

11. The Claimant was employed by the Respondent as a customer services adviser at its call centre in Hove from 30 March 2009 until her dismissal on the grounds of persistent lateness on 16 December 2016. She was contracted to work 10.00 to 19.00 Monday – Friday with a day off on Wednesday and 08.00 to 14.00 on Saturdays. Those hours were subject to some variation during the course of her employment and she sometimes worked additional hours.

12. The Respondent first drew the Claimant's attention to a problem with her timekeeping in July 2015 (page 48) when she was given in effect an informal warning by her manager Robyn English after four instances of lateness. The Claimant confirmed in her evidence that she was aware at that juncture of the need for employees to be ready to take calls at the time a shift began. The record of discussion, which was signed by the Claimant at page 49 with the words "I understand", stated, "Loveness is to ensure she is logged in and ready to take calls when her shift starts. If Loveness's lateness continues, disciplinary action may be taken". I find as a fact that the Claimant was aware that she was expected to be ready to take calls at the start of her shift.

13. In or around October 2015 the Claimant spoke to her manager Robyn English about some difficulties she was having at home, in particular in her relationship with her mother. This is recorded in an (undated) investigation report at pages 28 – 30, produced by Ms English. Ms English directed her to the Respondent's employee assistance programme and offered occupational health support, which the Claimant declined. The Claimant was then late on 15 December and a conversation about the reasons with Ms English ensued. Ms English issued an informal warning that disciplinary action would be likely to follow if there were

further instances of lateness.

14. The Claimant arrived at work 4 minutes late on 22 December. This caused Ms English to review the Claimant's starting times during November and December 2015. She found that the Claimant had been late on 17 out of 26 working days, a rate of 63% lateness. There was a log setting out the details at page 47. Ms English interviewed the Claimant that day as part of a formal investigation. Notes of the interview were at pages 42 – 46. The notes of the meeting include reference to the discussion between the Claimant and her manager on 15 December and suggest that ongoing issues with her mother were contributing to the Claimant's difficulties in getting to work on time. The investigation report that followed the meeting was at pages 27 – 30. Neither the report nor the notes of the meeting make it completely clear what Ms English's concerns were but as a result of that fact finding meeting Ms English referred the Claimant to occupational health and to the employee assistance programme. She also progressed the matter to a disciplinary hearing.

15. There was a copy of the Respondent's Disciplinary Rules at pages 31-36. The Claimant did not complain that these rules had not been followed. The Respondent relied on Section A paragraphs 1 and 2 and Section B paragraph 9 in taking disciplinary action. Paragraphs A1 and 2, required, respectively, observance of the terms of the contract of employment and performance of duties as required by the manager. Paragraph B9 gave persistent bad timekeeping as an example of conduct that could lead to dismissal or even summary dismissal. I find that the Claimant knew, or ought to have known of the importance of punctuality in an environment in which on her arrival at work she would be relieving a colleague who was engaged in a customer facing role, taking calls from the Respondent's customers.

16. The Claimant attended a face to face meeting with Occupational Health on 31 December and the assessment report was at page 212. This was the first of three occupational health reports that were obtained prior to the Claimant's dismissal. The report referred to the Claimant's issues with her mother and the impact they were having on the Claimant. It noted that the Claimant was finding the Respondent's employee assistance programme ("EAP") and counselling helpful in managing the situation. It recorded that the adviser suggested to the Claimant that she avoid looking at upsetting messages before going to work.

17. A disciplinary hearing followed on 14 January, chaired by Rob Quayle. The minutes were at pages 52-54. There was no copy of the letter inviting the Claimant to the disciplinary hearing in the bundle, which I found surprising. The minutes however, which are comprehensive, clarify the Respondent's concerns. Mr Quayle had read the occupational health report. There was a detailed discussion of the reasons the Claimant was finding it difficult to get to work on time, which included emotional turmoil in the early part of the day, seemingly caused by the ongoing difficulties in her relationship with her mother, who was sending her upsetting text messages. The Claimant had also been experiencing stomach pain and Mr Quayle questioned her about that and asked her to keep Ms English updated if there were further occurrences. He advised Ms English to arrange some more counselling sessions for the Claimant. He asked the

Claimant if he understood the impact of lateness on her team and the business, which the Claimant confirmed that she did and pointed out that the Claimant had managed a sustained period without being late in the 2.5 weeks preceding the meeting.

18. Mr Quayle adjourned the meeting before deciding the outcome and during the adjournment decided to give the Claimant a 12 month written warning. The minutes suggest that he was empathetic towards the Claimant, acknowledged her difficult situation and reaffirmed the availability of support through the EAP, occupational health, her managers, her trade union and the HR department. He added that whilst it wished to support her, the Respondent also needed to be confident that the Claimant would make a commitment to getting to work on time. He suggested that this involved a change in routine and a commitment to leaving the house earlier in the morning. He reminded the Claimant of her right to appeal and confirmed that further disciplinary action would be likely to follow if there were further instances of lateness. The outcome was confirmed in a letter at page 50-51, which reminded the Claimant of her right of appeal. She did not however appeal against the warning. I find that the approach taken by Mr Quayle was firm but reasonable and involved setting clear expectations to the Claimant whilst reaffirming the sources of support available to her.

19. A second disciplinary investigation was initiated in May 2016. On 9 May Ms English passed the Claimant on the stairs at 10.00am when the Claimant should already have been logged in and ready to take calls at that time. As a result Ms English reviewed the Claimant's sign in times for April and May and found that she had been late seven times in 20 working days, losing a total of 34 minutes. The investigation was conducted by Ryan Jestico who met with the Claimant twice, on 9 and 10 May and whose report was at page 68. It noted that following the first disciplinary hearing in January 2016 the Claimant's timekeeping had improved. There were no instances of lateness between 29 December 2015 and 31 March 2016. The Claimant had had an extended period of absence from work between 21 January and 11 March 2016 as a result of ongoing problems at home which resulted in migraines and disrupted sleep. The report showed that the Claimant had logged on 18 minutes late on one occasion, six minute late on two occasions and one minute late on four occasions. She had also logged on 43 minutes late on the occasion of an occupational health appointment on 18 April (there was no report of that appointment in the bundle). The Claimant had used the services of occupational health during her prolonged absence and there was a second report at page 214, prepared after a meeting on 15 February. The report recommended further counselling sessions, a phased return to work (which the Respondent implemented) and regular one to one meetings in the first few weeks to allow discussion of any work concerns that arose.

20. The reasons for the Claimant not having logged on time were discussed in some detail during the investigation meetings. There appeared to be several reasons for the lateness including anxiety. On 9 May the Claimant had been one minute late as a result of having to complete some breathing exercises in her car in order to manage an attack of anxiety. On two occasions she had had problems with the Respondent's IT system which had also been reported by

other team members. She also admitted that she sometimes "cut it fine" when leaving home for work. Mr Jestico concluded that there were "multiple reasons for her lateness which was system issues, "*cutting it fine*" and anxiety". He added "I do not feel that Loveness has taken responsibility for her lateness or that she followed the correct process when experiencing system issues". He concluded, "Because of the findings and contradictions in Loveness' answers the decision has been made to take this to a formal disciplinary hearing".

21. A second disciplinary hearing took place on 19 and 20 May again chaired by Mr Quayle. The meeting involved a detailed discussion of the issues and I find that Mr Quayle approached matters fairly and with an open mind. He adjourned the meeting before reaching a decision and reconvened the next day. He decided not to dismiss the Claimant but to give her a final written warning. He noted that her lateness had improved after her previous disciplinary hearing but there had been seven occasions of lateness in one month. To the extent that lateness was attributable to IT issues the Claimant needed to raise these with her manager and it was not clear whether she had done so. Mr Quayle also said that the Claimant needed to take responsibility for getting up in time in the morning. In January she had accepted her failings and given him an assurance that the problem would not recur. However he would give her one final chance and issued a further 12 month warning. I find that he did so on the basis that the Claimant could not adequately explain all the occasions of lateness, but that there appeared to be mitigating factors in some instances. I find that his decision was reasonable and fair in the circumstances at the time and gave the Claimant a very clear understanding that the Respondent expected her to take responsibility for arriving at work on time as well as a chance to show that she could meet that expectation. Mr Quayle's decision was communicated in the letter at page 102-103. However the reasons for his decision are set out in greater detail in the notes of the meeting at page108 -109.

22. There were no further problems until September 2016 when the Claimant was late on four occasions. Ms English however decided not to take disciplinary action at that stage. There is a record of the informal discussion that took place between the Claimant and Ms English at page 142-143. I find that the Respondent could have taken further disciplinary action at that juncture and was lenient in not doing so. In November and December there were a further five instances of lateness. On 5 December Mr Jestico conducted a fact finding meeting with the Claimant of which the minutes were at pages 129-131. His report, which recommended further disciplinary action, was at page 124-127. His reasons for escalating the matter were set out at page 128 and included his perception that the Claimant was still taking insufficient responsibility for arriving at work on time. He noted, for example, that the Claimant was not leaving home any earlier than she had done at the time the previous disciplinary warnings were issued.

23. A third disciplinary meeting was held on Thursday 15 and Friday 16 December 2016 and was chaired by Ashley Peters. The minutes were at pages 177-180. It was noted at the start of the meeting that the factors that had affected the Claimant at the stage of the earlier disciplinary hearings, namely the problems with her mother at home and the IT issues at work, no longer prevailed. I note

that the Claimant had conceded that at the investigation meeting with Mr Jestico. Mr Peters discussed with the Claimant the reasons for her most recent lateness. She attributed three of the most recent occurrences to accidents on the road and traffic, in once case due a Memorial Day parade. I note however that there were two instances of lateness, on 11 and 29 November, which although short (one minute and 26 seconds and two minutes 58 seconds respectively) were not explained by factors outside the Claimant's control (schedule of log in times page 163-164). The Claimant confirmed at the meeting that she had made various changes to her lifestyle and was regularly arriving at work early, particularly since the fact finding meeting. However it was only at the investigatory meeting that she had become aware that there were various apps that she could download to her phone to enable to her to keep track of traffic problems and find alternative routes to work. The Claimant's representative at the meeting, Neil McLennan, made the point that the collective agreement between the Respondent and its employees did not stipulate that an employee needed to be ready to take a call at the start of the shift and that the Respondent's attitude was harsh. However I am satisfied that the Claimant was fully aware that her managers expected her to be ready to take calls at the start of the shift and I find that this was a reasonable management expectation given the effect on a call centre operation of calls not being answered promptly.

24. Mr Peters reconvened the meeting on 16 December to give the Claimant the outcome. He decided to terminate the Claimant's employment on notice. He noted that the Claimant had extraneous reasons for some incidents of lateness, but others had been attributable to factors that were within her control. His oral evidence was consistent with this approach. As the Claimant already had two concurrent live warnings for lateness, he believed that she could and should have taken steps at an earlier stage to ensure that she was always at work on time, for example by using traffic apps. Mr Peters did not consider it to be his role to re-examine the legitimacy of the previous warnings, particularly as neither of them had been appealed. He based his decision to dismiss the Claimant on a year's worth of timekeeping issues and he made it clear that he was not looking at the recent lateness in isolation. He informed the Claimant of her right of appeal.

25. The outcome letter, dated 23 December, was at page 175. It stated:

> "**I am aware that this is the third disciplinary you have attended this year in regards to persistent poor timekeeping. Following both of the disciplinary hearings you were issued with a written warning and adequate warmings have been given within these meetings regarding the potential for termination of employment due to your lateness should the necessary improvement not be made. Following four occasions of lateness in September, your line manager had an informal documented discussion with you on 20th September 2016 in regards to your timekeeping. Therefore I feel that ample opportunity has been given to you to improve, however five further occasions of lateness occurred throughout November.**
>
> **Following previous warnings, which have been both formal and informal, there has been a noticeable improvement in your timekeeping which demonstrates to me that that you do have the ability to arrive for work on time. However these periods of improved timekeeping were not sustained. Within your previous disciplinary hearing on 20th May 2016 you advised that you were leaving your house between 9.15am to**

9.30am to get to work for 10.00am. In our disciplinary hearing on 15th December 2016, your advised me that you were leaving the house at 9.25am which does not give me the confidence that you have made the necessary changes to your morning routine in order to ensure that you arrive at work on time….

With the above taken into account I did not feel that you gave me the confidence that I would see a sustained improvement in your timekeeping."

26. On 28 December the Claimant appealed against her dismissal. Her letter of appeal was at page 181. The grounds of her appeal were:

    a. That the recent incidents of lateness were out of her control and she had informed the office that she would be late;
    b. That she had adjusted her lifestyle and taken positive steps to avoid future lateness;
    c. That she had made up any lost time and, on many occasions, worked past her contracted hours to complete calls and avoid breaching compliance regulations.

27. The Respondent wrote to the Claimant on 12 January 2017 (page 185) to note her grounds of appeal and invite her to an appeal hearing to be chaired by Ms Shaw. The meeting took place on 20 January and the minutes were at pages 194-197. Mr McLennan represented the Claimant and Mr Peters presented the management case. I find that the Claimant was given a clear opportunity at this meeting to express her concerns and to recount the overall history, including her ill health. She also raised the question of whether she had been singled out for different treatment from her colleagues. Before reaching a decision Ms Shaw investigated the allegation of inconsistent treatment and satisfied herself that the Claimant had not been subjected to harsher treatment than her colleagues. I find that Ms Shaw took this particular allegation seriously and ascertained from the Respondent's HR department that team managers were trained to monitor attendance and were expected to do so. She ascertained that when an issue was identified the team manager would download attendance data for the individual and the whole team and make decisions based on the individual's attendance data compared with overall team data. I asked Ms English how she had ascertained that this process had been followed in this case as there was no documentation in the bundle to show that such a process had been followed except for her email to Mr Peters at page 188 asking for information (24 January). Her response was that she had spoken to Ms English and Ms English's manager Paul Wilson and had accepted their assurances.

28. I found Ms Shaw a credible witness and find that she reached an informed decision on this point on a reasonable basis and that there was no reason for her to doubt the word of her colleagues or repeat the monitoring exercise for herself. Although the Claimant put it to her that she should have sought more evidence given the suggestion of unfairness, I was satisfied with Ms Shaw's response that she did not consider it necessary to repeat the whole process, but simply assessed whether Ms English had conducted the process appropriately. She had believed the account Ms English gave and I find that that was a reasonable position for Ms Shaw to have taken, particularly as Ms English had been lenient towards the Claimant in September – in my view that

supported the view that Ms English herself was endeavouring to be fair towards the Claimant.

29. It was clear from Ms Shaw's oral evidence that in reaching a decision on the appeal she also considered the process from the beginning and took into account the existence of unspent prior warnings. She also gave evidence as to how she had taken into consideration the Claimant's history of ill health. The Claimant put it to her that by subjecting her to disciplinary proceedings simultaneously with offering her help and support at the time the first warning was issued the support offered was undermined. Ms Shaw's evidence was that the Respondent needs to strike a balance between setting clear expectations and offering support and that the two have to happen simultaneously. In Ms Shaw's view a disciplinary process is not necessarily punitive. She considered the process and history as a whole and formed the view that the Claimant had been given a framework within which to improve and had in fact done so after receiving her warnings, but had then relapsed. She pointed out in her evidence the fact that the Claimant had had informal discussions about her lateness before any formal disciplinary action was taken.

30. Ms Shaw adjourned the meeting in order to consider her decision and sent the outcome letter, at page 191, on 3 January. Her thought process is illustrated by the exchange of emails with Tom Porter, HR adviser, on 24 January (page 189-90). The letter at page 191 addresses the four areas identified in that email: punctuality due to traffic, factors outside the Claimant's control and stress factors; lifestyle changes made; lost time being made up after shifts and good will; and the original decision and the treatment of others in the Claimant's department. She gave full reasons in her letter for not upholding the Claimant's grounds of appeal.

Submissions

31. Mr Cochrane referred me to the legal principles summarised at the start of this judgment. The Respondent, he submitted, had patently held a belief in the alleged misconduct and there had been a thorough investigation at each stage. The importance of punctuality had been emphasised to the Claimant and she had accepted that she understood it. The problem had nevertheless persisted over a period stretching from July 2015 to December 2016. The Claimant had had two written and two informal warnings in a twelve month period. The reasons that had prevailed at the time of dismissal had been set out in the letter at page 175-6. There had been very recent incidents of lateness and there was an ongoing concern that the Claimant was simply leaving the house too late in the morning to arrive in time to be ready to take calls at the start of her shift. The mitigating factors that had been relevant at the start of the disciplinary process were no longer an issue at the time of the dismissal.

32. Mr Cochrane also submitted that the Respondent's process had been robust and the appeal had involved a rehearing as well as Ms Shaw's own investigation into the question of consistency of treatment. Ms Shaw had had no reason not to believe Ms English on the question of the process she had adopted.

33. The Claimant submitted that she had not breached paragraph A2 of the Respondent's disciplinary rules (the requirement on employees to perform their duties as required or directed by their manager, subject to the right to raise safety concerns). She had been suffering depression and panic attacks at the time of the disciplinary hearing that led to her first warning and had reported this. She said that it had been problematic to be subject to a disciplinary procedure at the same time as being offered help and sometimes had been late because she had been practising the breathing techniques she had been shown to help her relieve her attacks of anxiety.

34. She also pointed to the system issues that had made her late on occasion and submitted that she had seemingly been subject to disciplinary action as a result of not using the correct procedure for reporting those issues.

35. She pointed to paragraphs 15 and 16 of the minutes of the first disciplinary hearing (page 54) in which Mr Quayle had offered support through the employee assistance programme, occupational health, her managers and others after she had opened up to her managers about the problems at home. She submitted that confiding in her managers had left her open to disciplinary action. She considered that the situation had been looked at in black and white without her explanations having been given adequate weight. By way of example she referred me to a statement prepared by Ms English regarding a discussion she had had with the Claimant on 13 May 2016, the content of which the Claimant had disputed in part at the time. She submitted that she had not been prepared at the fact finding meetings as she had not had prior warning of them. She confirmed what she had said at the end of her evidence, namely that she had not appealed against the disciplinary warnings because she had been going through a lot at the time, and had been advised by her counsellor only to deal with issues one by one.

Conclusions

36. I have reminded myself that my task in a misconduct dismissal case is not to determine whether or not the allegations were in fact proven or whether I would have dismissed the Claimant in the circumstances, but whether the Respondent held a reasonable belief based on reasonable grounds after a reasonable investigation into the allegations against the Claimant and whether it reached a decision that was open to a reasonable employer.

37. I felt considerable sympathy for the Claimant in this case as it was apparent that she had been struggling with a difficult and challenging situation at home at the time that problems with her punctuality first manifested themselves. As I said at the start of this judgment, I have considered the history of the disciplinary proceedings in this case with care, to ensure that the sequence of warnings that led to dismissal was not tainted from the outset. Hence I considered very carefully whether the earlier warnings were themselves fair, but I came to the view that although the Respondent took a strict view and was arguably harsh in issuing a 12 month warning at a time when there were mitigating factors in in

the picture, it could not be said that the first warning was manifestly unfair and inappropriate. I considered carefully the Claimant's submission that it had been illogical and undermining of the support offered to her to issue a disciplinary warning to her at the same time as referring her to sources of help and support. But the converse view, taken by the Respondent, is that it needed to ensure that the Claimant took seriously the necessity to be at work on time but wished to assist her in achieving the standards required by putting support in place to help her deal with the challenges at home. Whilst some employers might have taken a different approach, such as using a capability procedure, I do not think it can be said that no reasonable employer would have acted in the way that the Respondent acted. Its approach was very firm, not to say harsh at times, but not in my view outside the band of responses open to a reasonable employer. Furthermore Ms English gave the Claimant a chance in September 2016 by issuing her with an informal warning after four instances of lateness at the time her unexpired warnings were still in place. It would therefore have been open to the Respondent to dismiss the Claimant at an earlier stage than it did and it chose to give her one further opportunity, showing a manifestly reasonable approach.

38. Mr Peters' decision was in the overall context a reasonable, though firm decision. He was not satisfied that all the most recent incidents of lateness were explicable and was concerned that at the time of the fact finding meeting the Claimant was still leaving the house on occasion with only just enough time to spare, and sometimes insufficient time. His decision was in my view within the band of responses open to a reasonable employer. The mitigating factors that had prevailed earlier in the year were no longer relevant. Ms Shaw took a thorough approach to the appeal and weighed all the arguments put forward by the Claimant before reaching her decision that she could not uphold the appeal. She plainly took the role seriously and was diligent in discharging it.

39. In all the circumstances of the case, although I recognised that the Claimant had faced real difficulties in her personal life in the period leading to her dismissal, I am unable to decide, applying the relevant authorities and the test in s 98(4) ERA that the decision was unfair and the Claimant's claim of unfair dismissal is therefore dismissed.

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Employment Judge Morton

Date: 11 October 2017