

Can you be fairly dismissed for theft when you have been acquitted in a criminal trial?

written by BDBF

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Yes, according to the Court of Appeal in *Stuart v London City Airport*. Mr Stuart worked at London City Airport until he was dismissed for attempting to steal goods from a duty free shop. He brought an unfair dismissal claim arguing that LCA had not carried out an adequate investigation, in particular that they had not reviewed the CCTV footage in response to the duty free shop manager's accusation that he was concealing items under his coat.

The Court of Appeal disagreed and said that LCA had carried out a reasonable investigation based on Mr Stuart's main defence that he had not left the 'duty free' area or he had a genuine belief that he had not done so. LCA inspected the site where the alleged theft occurred and found that the shop boundaries were clearly demarcated thus undermining Mr Stuart's credibility. Based on the fact that LCA had concluded that he had been dishonest, it was reasonable for them not to consider CCTV footage in relation to the alleged concealment of goods. Furthermore, at no point during the disciplinary proceedings did Mr Stuart suggest that LCA should carry out the investigations whose omission he now said rendered the dismissal unfair.

This case is good news for employers. One word of warning however...should an employee request evidence to be taken into account as part of the disciplinary process, it would be wise to include it otherwise it may impact on the fairness of the investigation.

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