

Dismissal for information-sharing unfair where confidentiality policy not enforced

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The dismissal of an employee for sharing confidential information was unfair in circumstances where the business' information-sharing culture was at odds with its formal confidentiality policy.

Mr Stimpson was employed by Citibank as a trader in its EMEA G10 Spot foreign exchange trading business from 2 January 1989. In his 2009 and 2010 appraisals his manager encouraged him to maintain contacts in the industry by joining an online Bloomberg chat room used by multiple banks. No guidance was given as to what should or should not be posted in such a chat room.

Around 31 January 2013, once the LIBOR rigging scandal had become public, FX spot traders (Mr Stimpson included) were told to stop using the Bloomberg chat room. Citibank conducted an investigation into its practices; as a part of this, Mr Stimpson was suspended on allegations that he had shared client confidential information with other traders in the chat room, in breach of Citi's confidentiality policy.

Mr Stimpson argued in his defence that information-sharing was part of the culture of the FX market. He said that his managers not only gave no guidance as to how chat rooms should be used, but seemed to encourage the sharing of confidential information between banks.

Citibank informed Mr Stimpson on 20 November 2014 that he was dismissed without notice; this was some 5 days after Citi received a final notice from the Financial Conduct Authority stating that "the right values and culture were not sufficiently embedded in Citi's G10 spot FX trading business". Mr Stimpson's appeal against his dismissal was unsuccessful, so he brought a claim for unfair dismissal against the bank.

The Employment Tribunal held that Mr Stimpson had been unfairly dismissed. It held that the dismissing officer had adopted a “rather blinkered approach” in looking only at the black letter of the policy rather than how far it was applied in practice. In particular, Citi had failed properly to consider Mr Stimpson’s arguments about the reality of FX culture, support for which was subsequently given by the FCA’s final notice.

Employers in all sectors are reminded by this case of the risks in dismissing an employee for non-compliance with a company policy which bears no relation to how business is conducted in practice.

Stimpson v Citibank N.A. ET/3200437/15

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