

# Employers can rely on unrelated earlier disciplinary warnings to dismiss an employee for misconduct

written by BDBF

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In *Wincanton v Stone*, Mr Stone was employed as a driver for Wincanton. In 2009, Mr Stone received a first written warning for being insubordinate. In 2010, Mr Stone breached Wincanton's health and safety rules when he pulled out of a loading bay when the light was red. This was not an act of insubordination but carelessness. Wincanton dismissed Mr Stone on the basis that the earlier warning "*tipped the balance*" in favour of dismissal, even though the two warnings were for very different types of conduct.

Mr Stone brought a claim in the Tribunal for unfair dismissal. The Tribunal held that Wincanton had acted unreasonably in aggregating the warnings. Wincanton appealed and won.

An employer is entitled to dismiss someone for being involved in two different types of misconduct. This is clearly a helpful decision for employers.

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