

HR's heavy influence in disciplinary investigation made dismissal unfair

written by BDBF

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An employee was unfairly dismissed in circumstances where heavy influence from the Human Resources department had led to the investigating officer changing his recommendation from a final warning to immediate dismissal.

Mr Ramphal worked as an Aviation Security Compliance Inspector for the Department for Transport. His job involved travel and he received an allowance to cover his expenses in that regard. After a random expenses audit in June 2012, concerns were raised about Mr Ramphal, including excessive petrol use, personal use of hire cars and other purchases identified as suspicious. Mr Goodchild was appointed to investigate and, after holding a disciplinary hearing, produced the first draft of his report on 11 September 2012. The report contained some criticisms of Mr Ramphal's conduct as well as findings in his favour in a number of respects, with the consequence of a recommendation that Mr Ramphal be given a final warning for misconduct. Over the subsequent 6 months, HR was in frequent contact with Mr Goodchild and made a number of amendments to the report leading to a number of various drafts. The final report was significantly different from the original draft, replacing the favourable findings with criticisms and recommending a sanction of summary dismissal for gross misconduct.

The Employment Appeal Tribunal set aside a decision that Mr Ramphal's dismissal was fair. It held that it was implied into an employment contract that the report of an investigation officer into allegations of misconduct would be the product of the officer's own investigation; in this case, it held that the input from HR had been 'disturbing' and had wrongfully affected the decision on Mr Ramphal's culpability. HR can offer advice to an investigating officer, but only on matters of law and procedure – they cannot involve themselves in the decision as to an employee's blameworthiness.

Ramphal v Department for Transport UKEAT/0352/14

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