EMPLOYMENT TRIBUNALS

Claimant		**Respondent**
Mrs Vanessa Groat	**v**	(1) SASSE Facilities Management Limited; and (2) The Felixstowe Dock and Railway Company

Heard at: Norwich (in person)

On: 27, 28, 29 February 2024
1, 4 and 5 March 2024

Before: Employment Judge Postle

Members: Ms S Williams and Mr R Allen

Appearances
For the Claimant: In person
For the First Respondent: Miss Miller, Counsel
For the Second Respondent: Miss Price, Counsel

JUDGMENT

The unanimous Judgment of the Tribunal is that the Claimant's Claims that she suffered detriment for making public interest disclosures is not well founded.

REASONS

Background

1. The Claimant brings two claims under the Employment Rights Act 1996 for whistle blowing being:

    1.1. Firstly, the First Respondent ignored the disclosures the Claimant made about non-compliance with the Rules around Covid-19 in January 2021, the Claimant says she made a lengthy statement about what happened;

1.2. The second protected disclosure being on 22 February 2022, the Claimant alleges she made protected disclosure to John Whitby (Chief Inspector of Police within the Port) during a discussion about the Second Respondent's Covid Policy and mask wearing. The Claimant made the protected disclosure that Andreas Miaoulis and Stu List worked in the same area and had not complied with Covid Rules after John himself had contracted Covid in January 2021.

2. The specific qualifying disclosure relied upon appears to be under s.43B of the Employment Rights Act 1996 ("ERA"):

> **43B Disclosures qualifying for protection.**
>
> (1) In this Part a " qualifying disclosure " means any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the following—
>
> (a) that a criminal offence has been committed, is being committed or is likely to be committed,
>
> (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
>
> (c) …
>
> (d) that the health or safety of any individual has been, is being or is likely to be endangered,
>
> (e) …
>
> (f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

3. The question then arises, did the Claimant reasonably believe that the disclosure of information was in public interest?

4. The Claimant remains employed by the Respondents although absent through sick leave and she says she suffered the following detriments as a result of raising the above disclosures, namely:

4.1. In the case of the First Respondent,

a. the First Respondent did not take her disciplinary or Grievance issues seriously or deal with them properly. The Claimant states that she was given a disciplinary warning in May 2022 and her Grievances in May 2022 were not investigated;

b. the First Respondent highlighting insignificant issues about the Claimant's conduct;

c. the First Respondent altering the Claimant's official complaint email;

d. the First Respondent adding and removing information from Minutes of meetings during the investigation and disciplinary;

e. the First Respondent withholding disciplinary decisions so there was no time for the Claimant to appeal within the stated time frame; and

f. the First Respondent accusing the Claimant of making false allegations.

4.2. In the case of the Second Respondent, the detriment relied upon is:

a. on 24 February 2022 the Claimant was removed from her normal place of work (the Police Office) as she was transferred to a different location to clean.

5. In this Hearing we have heard from the Claimant, together with:

5.1. Charlotte Lines, a Police Controller (the Claimant's sister);

5.2. David Jones, a former Police Officer within the Port; and

5.3. PC20 Steven Jay, a Police Officer within the Port.

All giving their evidence through prepared Witness Statements.

6. For the First Respondent we heard evidence from:

6.1. Ms Georgina Melton, a Supervisor; and

6.2. Ms Silvia Szombathofa.

All giving their evidence through prepared Witness Statements.

7. For the Second Respondents we heard evidence from:

7.1. Mark Brown, Employee Relations Manager;

7.2. John Whitby, Chief Police Officer;

7.3. Stuart List, Administrative Support; and

7.4. Andreas Miaoulis, Senior Delivery Manager.

All giving their evidence through prepared Witness Statements.

8. The Tribunal has the benefit of a Bundle of documents consisting of 289 pages.

The Law

The reasonable belief in the relevant failure

9. The Employment Appeals Tribunal ("EAT") made it clear that there is a subjective element to the issue that the worker must believe that the information disclosed tends to show one of the relevant failures and also an objective element in that belief must be reasonable.

10. When determining whether the disclosure of information tends to show matters set out in s.43(1)(a)-(f), the Employment Tribunal should have identified the source of the legal obligation to which the Claimant believes the Respondent was subject and how they had failed to comply with it. The identification of the obligation does not have to be detailed or precise, but it must be more than a belief that certain actions are wrong.

11. A qualifying disclosure is:

    a. A disclosure of information that,

    b. In the reasonable belief of the worker making it that it, is made in the public interest; and

    c. In the reasonable belief of the worker making it tends to show that one or more of six relevant failures has occurred, is occurring or is likely to occur.

12. In relation to (b) and (c) above, both have two elements: that the Claimant has the required belief (as a matter of fact and on subjective basis) and, if they do, that their belief is a reasonable belief to hold (on an objective basis). A belief which is wrong still meets the requirements of s.43B provided it is reasonably held.

13. The question of whether a disclosure about a personal interest is also made in the public interest, is one to be decided by considering all the circumstances of the case, there might include:

    a. The numbers in the group whose interests the disclosure served;

    b. The nature of the interests affected and the extent to which they are affected by the wrongdoing disclosed;

    c. The nature of the wrongdoing disclosed. Disclosure of deliberate wrongdoing is more likely to be in the public interest than the disclosure of inadvertent wrongdoing affecting the same number of people; and

    d. The identity of the alleged wrongdoer. The larger or more prominent the wrongdoer (in terms of the size of its relevant community, i.e. staff suppliers and clients) the more obviously should a disclosure about its activities engage the public interest.

Protected disclosure detriment – s.47B

14. Detriment is given a wide interpretation, it means doing something that a reasonable worker would consider to be to their detriment.

15. As to detriment, for there to be a detriment under s.47B "on the ground that the worker has made a protective disclosure", the protected disclosure has to be causative in the sense of being "the real reason, the core reason, the motive for the treatment complained of." The test is whether the protected disclosure materially influences (in the sense of being more than trivial influence) the employer's treatment of its workers.

16. The burden of proof for protected disclosure detriment is on the Claimant to show what happened that amounted to a detriment and that a protected disclosure was a ground for that detrimental treatment to which she says she was subjected.

17. The Claimant has to establish a prima facie case that she was subjected to a detriment and that the protected disclosure had a material influence on the Respondent's conduct which amounted to that treatment. At that point if she establishes that, she then has to show the reason or ground upon which the detrimental treatment was done.

18. Failure by the Respondent to show positively the reason for an act or failure to act does not mean the complaint of whistle blowing detriment will succeed by default. It is question of fact for the Tribunal to decide whether or not the act was done on the ground that the Claimant made a protected disclosure.

The Facts

19. The Claimant was employed by SASSE Facilities Management Limited, the First Respondent, as a Cleaner and commenced her employment on 2 June 2002 and remains employed though currently absent on long term sick. The Respondent is the largest Container Port in the UK and handles approximately 40% of all container shipments in or out of the UK.

20. It is accepted that the Port upon Covid coming along set up a Steering Committee to issue Guidance to the staff, continually reviewed the Guidance and there were notices displayed throughout the Port and Police Station where the Claimant was assigned. These notices were about the need to where masks, social distance and the use of hand sanitiser. There was also implemented an internal Track and Trace system. At various times during Covid the Respondent went on the National Guidance, for example the wearing of masks, details of the various Policies and Procedures are to be found at 125 – 140 of the Bundle.

21. It does not appear in dispute that in March 2020 the Claimant did not want to wear a mask. At that stage it was Port Policy that all workers and contractors in the Port were required to wear masks. That led to PC Sergeant Sue Brown (page 132) emailing Mr Miaoulis on 2 April informing

that the Claimant had not been wearing a mask, that she should be told she had to wear a mask and if she did not have one then one could be provided. Apparently at that stage the Claimant's employer, the First Respondent, spoke to her about this.

22. In January 2021, again not in dispute, Mr Whitby the Chief Police Officer within the Port, caught Covid. It is clear the Port implemented its Track and Trace Policy. Mr Whitby was asked who his close contacts were and he did not list the Claimant as he did not believe he had been in close contact with her as defined by the Port Policy; i.e. face to face contact for any length of time and if a person who has or is suspected of having one or more symptoms of Covid and who was less than one metre away, and face to face contact of more than 15 minutes within two metres of a person who has or is suspected of having one or more symptoms of Covid if both parties had face coverings on, (page 273).

23. Mr Miaoulis was the nominated person under the Covid Policy. He advised the Covid Team and following information from Mr Whitby determined who was a high risk contact. It was determined that was Mr List and Mr Miaoulis, both who were not symptomatic, both who had Covid tests, both were negative.

24. Mr Miaoulis then arranged the fogging (cleaning) of Mr Whitby's office as per the Policy. He then took advice as to how best to inform the Team on 18 January and they were duly informed Mr Whitby had Covid and, there is no reason the Tribunal could see to tell staff to keep it quiet as it appeared common knowledge Mr Whitby caught Covid in any event.

25. Previously, Mr Miaoulis and Mr List stayed away from work until they had their negative tests. It is not suggested that they had close contact with Mr Whitby in the days leading up to 14 January, therefore in accordance with the Policy they were not required to self-isolate.

26. In February 2022 the Tribunal were prepared to accept that the relevant dates being 22 and 23 (clearly a mistake on Mr Whitby's handwritten note made on 23 February 2022, page 281), and in fact makes no difference to the issues the Tribunal has to determine.

27. In February 2022, there was no change to the Port's Policy about the requirement to wear face masks, (page 138). The gist of the events on 22 February appear to be that Mr Whitby saw the Claimant not wearing a face mask in the Police building. As he clearly would do with any contractor or member of staff, he raised this issue with the Claimant as it was company Policy at the time to wear a mask regardless of National Guidelines. What is clear, the Claimant at this stage questioned the Policy and the need to wear a face mask and may have at this stage questioned why she believed others were not wearing masks. Mr Whitby's response was he could only deal with what he saw in relation to personnel not wearing face masks. It is accepted no notes were taken at that stage as it was simply an instruction to the Claimant to wear her face mask and conversation around the need to wear it. Whether Mr Whitby in passing

mentioned it to Mr Miaoulis on 22 February, it matters not. What is important, the following day on 23 February Mr Whitby again sees the Claimant not wearing her face mask. He raised this again with her, i.e. the need to wear a face mask and that it was not an option. Her response seems to be that she did not need to wear one and Mr Whitby reminded her it was company Policy. However, she was insistent it was not a requirement given the change in National Guidelines about face masks at the time.

28. The contemporaneous note of Mr Whitby largely replicates his Witness evidence. What is clear is the Claimant was seen not wearing a mask, she did not want to wear a mask, she believed it was not necessary, she clearly was confrontational and obstructive and was making allegation about not following Covid Rules in January 2021, particularly people not isolating and that Mr Whitby only wanted to continue wearing a mask so that he could work from home, that the company was corrupt in the way it dealt with furlough and that she believed she was bullied by Mr Whitby when all he was asking was for the Claimant to follow his instruction as it was company Policy to wear a mask. The Claimant was alleging that others in the Police were not wearing masks and were allowed to get away with it. Mr Whitby felt the conversation was getting nowhere so the Claimant was given the option to either wear her mask or leave the building, a right ensconced in the contract between the First and Second Respondents regarding the removal of workers. Finally, he was going to speak to Mr Miaoulis about the incident over other people allegedly not wearing masks. The Claimant was also told by Mr Whitby to speak to her own company if she wanted to make a complaint.

29. Mr Whitby spoke to Mr Miaoulis on 23 February about what had transpired with the Claimant, in particular not wearing a mask, about Mr Miaoulis being promoted for wrongdoing, another allegation the Claimant was making, Police Officers not following rules, i.e. wearing masks and the discussion about the allegation of rule breaking in January 2021. Whereupon Mr Miaoulis raised the matter with Miss June Smith, the Facilities Manager for the Second Respondent, who would presumably take the matter further with the Claimant via her own employer.

30. The complaint by Mr Miaoulis was in an email (page 144), dated 23 February and timed at 10:02. The original email is at page 146 and sets out the concerns raised by Mr Whitby, the gist of which was the failure to wear a mask and the Claimant's confrontational conduct with Mr Whitby on 23 February. The Tribunal do not accept this email has been altered in any way or fabricated and there is no reason why the Second Respondent would do so, nor the First Respondent conspire with the Second Respondent to alter or fabricate the email. Indeed, there is no evidence to support such an allegation by the Claimant.

31. The Claimant was removed from cleaning the Police Station and offered an alternative site with the same terms and conditions and pay within the Port. However, for reasons best known to the Claimant she has declined

that and remains absent on sick leave. The contract between the First and Second Respondent clearly has a clause entitling the Port to ask for the removal of contractors for good reasons.

32. On 24 February, Mr Curtis Smith from the First Respondent reads the complaint to the Claimant in the presence of Miss Melton also from the First Respondent. The Claimant prepares a response in writing, at which she now describes as a protected disclosure, about the Second Respondent Mr Whitby, Mr List and Mr Miaoulis not following Covid Rules in January 2021 and also other allegations about the Port being corrupt. When one looks at it, it is of course a response / defence to the complaint.

33. On 7 March, (page 171) the Claimant is invited to an investigatory meeting on 16 March to consider:

> "a. client complaint about your behaviour on 23 February 2021; and
>
> b. the meeting will also include your subsequent statement and email."

34. The meeting takes place on 16 March (the Minutes are at pages 174 – 176). It was Chaired by Mr Curtis Smith the Regional Manager of the First Respondent and Notetaker Miss Melton. Unfortunately, Mr Smith has now left the Respondent's. Clearly the purpose of that meeting was to investigate allegations centred on the Claimant not wearing a mask and her behaviour. During that meeting she accepted she was not wearing a mask and accepted the Port Policy was to wear a mask. She was asked about outcomes and she responds saying something along the lines about those guys not following process regarding self-isolation. She is questioned about why she did not raise this at the time as this was now some thirteen or fourteen months later. Her response was because of the argument (reference to the discussion with Mr Whitby). Mr Smith said she should have raised it with Miss Melton at the time when it could have been sorted out and resolved. The meeting was then concluded.

35. There was then a brief Report prepared following the investigation by Mr Smith (pages 177 -180) dated 25 March. He recommended the Claimant be subject to a Disciplinary Hearing following the Claimant's admission she was not wearing a mask and the fact that the Claimant alleged the Second Respondent was not following Covid Rules and should have been raised at the time.

36. On 1 April (page 181) the Claimant is then invited to a Disciplinary Hearing to take place on 7 April 2022. The allegations are:

> "a. The Client complaints about your behaviour; and
>
> b. The meeting will also include your subsequent statement and email."

37. She was notified the possible outcome would be a written warning. In that letter enclosed was a copy of the Investigation Report, the Investigation

Minutes (which were never challenged at the time by the Claimant as being altered or inaccurate) and the Internal Covid Notices.

38. The letter provided the Claimant with the right to be accompanied and informed the Claimant she could provide further documents and any witness evidence for the Hearing.

39. The meeting takes place on 7 April 2022 and the Minutes of that meeting are at page 171 – 173, which the Tribunal believe were wrongly dated 8 March 2022 as they must relate to the meeting on 7 April 2022 and can only relate to that meeting as they are headed "Disciplinary Meeting", and to deal with the matters raised in the letter to the Claimant inviting her to that Disciplinary Meeting. The meeting tallies with who was present and confirmed by the invite letter, who were: Alex Borg, Senior Operations Manager who again has now left the Respondent; Miss Melton as the Notetaker; and the Claimant. The Claimant was also accompanied by Mr Ward, a fellow employee. At that Hearing there was a discussion centred on the failure to wear a mask, the Claimant accepting again she was aware of Port Policy having heard about it, but not seen a poster / notice. She alleges she never refused to wear a mask but alleges that she was given two choices and to think about wearing a mask, but fails to mention the second choice. The Claimant continues to maintain that she never said that she was not wearing a mask, but Mr Borg finds it needs further investigation.

40. There is then confusingly a Grievance Meeting on 25 April 2022 by Teams, the Minutes of that are at pages 195 – 200, conducted by Mr Kamasho, the Regional Manager of the Port and Miss Berrell from HR as Notetaker and the Claimant. At this meeting her Grievance was discussed. Her Grievance appears to come from her letter of 8 April 2022 (at page 188) and also her original written response in February 2022 to the complaints against her. A major part of the discussion was again around the Claimant not wearing a mask, Port Policy and making it clear that this meeting was not part of the disciplinary process. There was a discussion about other people allegedly breaking Covid Rules and not wearing masks. Again it was made clear that this meeting was entirely separate from the disciplinary process.

41. In the meantime, there is a second Disciplinary Meeting on 28 April 2022 (the Minutes of which are at pages 201 – 203) conducted by Mr Borg, Miss Melton was the Notetaker and again the Claimant was accompanied by Mr Ward.

42. Again, the meeting centred on whether the Claimant was wearing a mask and whether she knew Port Policy, and about the request by a Senior Manager to wear a mask and then arguing with him. Mr Borg's view was that the Claimant did know Port Policy and she was not wearing her mask. There was a request to remove her from site by the Police and of course they have the authority to do so as the Claimant was employed by the First Respondent. The meeting then talked about the Claimant returning to work and the fact that they were not going to investigate their Client. The

Claimant needs to follow the First Respondent's procedure and indeed, if she wished to take the matter further she could contact the Union. That being a reference to the breaches of Covid alleged by the Claimant 14 months ago.

43. On 2 May 2022 the outcome of the Disciplinary was sent to the Claimant (page 205) and that was a written warning. Brief reasons were given why and the complaints about behaviour. Also in that letter was the Claimant's Right of Appeal. It is accepted the letter arrived outside the agreed time, but given that the Claimant is not a person who fails to speak up, she did not complain at the time or even attempt to Appeal outside the time limit for an Appeal.

44. Then on 8 May 2022 the Claimant emails further details to HR of a formal Grievance which is in effect the second Grievance referred to above.

45. There is then a meeting between Curtis Smith and Innocent Kamasho in which Mr Kamasho is further investigating the Claimant's Grievance. That meeting took place on 9 May 2022 (Minutes at pages 206 – 208), there was a discussion that the Claimant was not wearing her mask and the other allegations regarding Covid breaches from the previous year with Port staff over which the First Respondents had no authority. They would have investigated it had it been raised at the time by speaking to the Client, but now 18 months had lapsed and it would not be investigated. Further, the instruction to move the Claimant had come from the Client as they had lost trust in her because of her behaviour and failure to follow instructions to wear a mask, the fact that the Claimant was now pushing and insinuating that Port Police broke Covid Rules and said there should be some repercussions. Mr Smith stating the matter had been passed on to the Client to deal with any potential breach in Covid Rules.

46. On 9 May 2022, HR emailed the Claimant (page 209) in which they acknowledged the Claimant's email of 8 May 2022 about a further formal Grievance and reminded the Claimant that,

> "You had a formal Grievance meeting last Monday with Mr Kamasho where he has read your complaint and is looking into it. He will write to you directly with the outcome and meeting Minutes and any necessary investigation. Of course you have the right to appeal or accept any decision."

47. The Grievance Outcome was communicated to the Claimant by letter of 11 May 2022 (page 215),

> "Dear Vanessa, re your Grievance,
>
> I am writing to inform you of the decision I have reached on the Grievance you raised in your letter of 8 April and which was heard at a Hearing held on 25 April over Teams.

After very careful deliberation and having heard all the arguments and evidence, I have decided not to uphold your Grievance for the following reasons:

- We believe the investigation completed by Curtis Smith was completed fully;
- He bases his decision on the facts he was able to obtain throughout the investigation;
- You alleged June Smith was aware of the incident, we have included evidence this was not the case, please see enclosed;
- You admitted that you were not wearing a mask and aware of the Policy that you should have been in your investigation meeting, Curtis Smith has confirmed this and Georgina Melton has made note of this in the Minutes; and
- The issues you are raising regarding Port staff are not relevant to SASSE or this investigation.

You have the right to appeal and this decision if you wish to appeal you must put your appeal in writing to Robert Rilton by 18 May setting out in full grounds on which you are appealing. Any appeal will be dealt with in accordance with the company's Grievance Procedure, a copy of the procedure is available in your Employee Handbook, if you need another copy please let me know.

…

Yours sincerely Innocent Kamasho, Regional Manager."

48. The Claimant did not appeal that decision.

Conclusions

Public Interest Disclosure 1

49. That the First Respondent ignored disclosures that the Claimant made about non-compliance with the Rules around Covid in January 2021. The Claimant asserts she made this in a lengthy statement about what happened in a handwritten document in February 2022.

50. The Tribunal believe if it was a protected disclosure it was only made in response to the Second Respondent's concerns about not wearing a mask and the failure to follow Port Policy. It was a reaction in anger and frustration. It was defence to not wearing her mask, as indeed the allegation about the Port being corrupt. She subsequently apologised for saying the Port was corrupt.

51. In simple terms the Tribunal cannot conclude that this alleged public interest disclosure, if it is, was made in the public interest. It was self-

serving. The Claimant had little regard for the health and safety of others at the time of her disclosure as she was not wearing a mask. She had a reluctance to wear a mask. Clearly the Claimant did not have a reasonable belief that the health and safety of other individuals was, or is being, or is likely to be endangered.

52. Given the allegations were made in response to concerns and complaints made against the Claimant, it cannot be the case subjectively that the Claimant had a reasonable belief that the information she was disclosing tended to show any relevant failures listed under s.43B of the Employment Rights Act 1995, objectively the belief simply was not reasonable and therefore the Claims do not pass the first hurdle, and that claim fails.

Public Interest Disclosure 2

53. Namely, on 22 February the Claimant alleges that she made a public interest disclosure to John Whitby during a discussion about the Second Respondent's Covid Policy and mask wearing. The Claimant made the public interest disclosure that Mr Miaoulis and Mr List had not complied with Covid Rules after Mr Whitby had contracted Covid in January 2021.

54. The Tribunal repeat the points raised in the conclusions in relation to the first public interest disclosure above and in particular and in any event, the allegations were made some 13 months later. Clearly there was no danger to anyone's health and safety and again if you genuinely believe that someone was committing a criminal offence or breach of a legal obligation or health and safety breaches, you would raise them at the time not one year later.

55. Again, the Tribunal conclude the Claimant subjectively did not have a reasonable belief that the information she was disclosing tended to show any relevant favours or failures as listed under s.43B ERA 1996. Objectively the belief simply was therefore not reasonable and the Claim should therefore be dismissed.

56. Even if the Tribunal were wrong in those conclusions, in relation to the alleged detriments of the First Respondent the following:

    56.1. The suggestion the First Respondent did not take her disciplinary or Grievance issues seriously or deal with them properly and that she was given a disciplinary warning in May 2022 and her Grievances in May 2022 were not investigated, is simply not borne out by the facts. Clearly there were two Disciplinary Hearings following an investigation at which it was established that the Claimant was not wearing her mask, she was aware of the Port Policy and failed to follow a reasonable instruction from a Senior Police Officer from the Second Respondent to wear her mask. For that she was given a written warning. Some employers might have dismissed. Clearly that was not detriment and in no way connected to or on the ground of making any alleged protected disclosure.

56.2. As for the Grievances, they might not have been the best investigation, but what the Respondents were being asked to look at was matters outside their control, namely alleged breach of Covid Rules by the Second Respondent that had occurred some 13 or 14 months before. All they could do was raise them with the First Respondents and leave them to deal with them. There is therefore no detriment.

56.3. In relation to the Claimant's second detriment, the First Respondent highlighting insignificant issues about the Claimant's conduct. It was not entirely clear to the Tribunal what this was in respect of and therefore that claim is not borne out.

56.4. The third detriment, the First Respondent altering the Claimant's official complaint email. Again, it is difficult to see how that can be a detriment even if it occurred, but there is no evidence to support this allegation and furthermore there is no benefit to the First of Second Respondent in either altering or conspiring to alter the complaint from the Second Respondents to the First Respondents. This is not made out.

56.5. The fourth allegation being the First Respondents adding or removing information from Minutes of the meetings during the investigations and disciplinary. What is clear, those Minutes were sent to the Claimant and she did not challenge them at the time, therefore given that the Claimant is not a shrinking violet, the Tribunal would have expected her to have raised this in no uncertain terms if she believed those minutes were in some way incorrect or altered at the time they were sent to her.

56.6. The fifth detriment, namely the First Respondent withholding the disciplinary decisions so there was no time for the Claimant to Appeal. This is in relation to the allegation that the outcome letter from the Disciplinary Meeting was not sent until 9 May and the time limit for appealing was seven days which would have taken her outside the time. Clearly that was unfortunate by the Respondent, but again, the Claimant is not a person who is slow in coming forward and she made no attempt to Appeal arguing that the Appeal should be granted given the time limit had already expired. That detriment is not made out.

56.7. The sixth and final detriment in relation to the First Respondent is the accusation that the Claimant was subjected to false allegations in the complaint letter from Mr Miaoulis to her employer. What Mr Miaoulis set out was concerns that they had, they do not appear to be false and furthermore, the only sanction the Claimant was subjected to was a written warning in any event. This is not made out as detriment.

57. In relation to the alleged detriments by the Second Respondent, namely on 24 February the Claimant was removed from her normal place of work

(the Police Office) and transferred to a different location to clean. It is of course within the terms of the contract between the First and Second Respondents; the right of removal in certain circumstances and on the facts of this case, it is clear that the Second Respondents were within their rights to ask for her to be removed. Effectively the Claimant did not suffer a detriment in any event because she was simply asked to clean on another site within the Port, on the same terms and conditions and pay. Therefore that detriment cannot be made out.

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Employment Judge Postle

Date: 20 / 3 / 2024

Sent to the parties on: 28 / 3 / 2024
T Cadman
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For the Tribunal Office.

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https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/