

ATTENDANCE REVIEW HEARING NOTES

DATE: 26/03/2010 TIME: 0345

PRESENT

Employee: PETER STIU ()

Manager: JOHN CLENAGHAN ()

Employee Rep: TONY McAVOY ()

Note Taker: DAVID MILLER ()

SC - THIS IS NOT A DISCIPLINARY BUT COULD LEAD TO YOUR DIS-MISSAL THROUGH THE SYA PROCESS. YOU ARE ENTITLED TO A REP WOULD YOU LIKE ONE.

PST - YES TONY McAVOY

SC - BEEN OFF FOR 32 DAYS WITH BACK PROBLEM WAS THAT SPONTANEOUS

SC ~~PST~~ - HAVE YOU BEEN TO DOCTORS

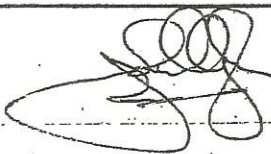
PST - YES SOMETHING I'M ALWAYS GOING TO HAVE THAT WILL GET PROGRESSIVELY WORSE

SC - ANYTHING POWER CAN DO FOR YOU

PST - I'M SEEING OUR HEALTH WAS DIS-MISSED 2005. RE-INSTATED 2006. MEANT TO RECEIVE ASSESSMENT DON'T HAPPEN. GOT CLEARANCE IN JUST NOW

SC - IS IT ANYTHING THAT CAN CAUSE IT TO TAKE UP

PST - JUST ANYTHING



A McAvoy

SC - LAST TIME YOU WERE OFF WITH YOUR
BACK WAS OVER A YEAR AGO WHICH
WAS AROUND JAN 2009

DO YOU HAVE ANY MEDICATION

PST - WAS ON AMITRIPTINE BUT HAD TO
STOP ON RETURN TO WORK

SC - NOT ON MEDICATION NOW

PST - NO SINCE I GOT MY JOB BACK IN 2006
BEEN ON THE PAIN ~~FOR~~ EVERY DAY
FOR 3 YEARS.

THE - HOW MANY TIMES HAS HE BEEN OFF
WITH HIS BACK.

R - 3 TIMES SINCE 2007 DO YOU SEE IT
GETTING BETTER

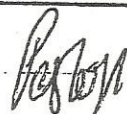
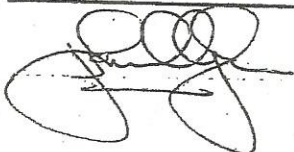
PST - WELL IF YOU CONTINUE TO ASK ME TO DO
A JOB THATS MAKING IT WORSE
THEN ITS NOT GETTING ANY BETTER JUST
GETTING WORSE

WHATEVER YOU SAY I BELIEVE YOU
CANT DO ANYTHING TO HELP ME
SO MAKE YOUR DECISION AND GET ON
WITH IT.

R - SO YOU'VE PLANNED FOR 4 YEARS SINCE
GETTING YOUR JOB BACK

PST - YES

SC - WHEN DID YOU STOP PLANNING



A M [unclear]

PS - LAST YEAR

JC - SO YOU HAVEN'T BEEN OFF WITH YOUR
SORE BACK TILL NOW

BEFORE LAST YEAR WHEN I WAS THAT

PS - YOU HAVE THE RECORDS I DON'T KNOW

JC - IT WAS SENT 2008. IN 2 YEARS
THAT IS THE 3RD TIME YOU'VE BEEN
OFF WITH YOUR BACK

WHAT IS YOUR PHYSICIAN ACTUALLY
SAYING

PS - BENNY HAS ASKED FOR A MEDICAL
REPORT AND AM WAITING FOR AN
APPOINTMENT. CAN'T TELL YOU ANYMORE

JC - OBVIOUSLY YOU HAVE 46% WHICH ISN'T ALL ASUS YOUR
BACK YOU'VE BEEN OFF PAIN FOR ABOUT A YEAR

ADJOURNED - 04:10

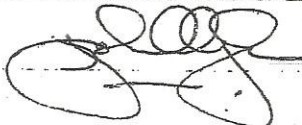
RE STARTED - 04:17

JC - WENT BACK 9 YEARS YOU HAVE PICKED
9 SURGIES IN 2 YEARS SO IT'S
NOT A YEAR

PS - I'M NOT SAYING ANYMORE ON THE
MATTER THAT'S IT

JC - WHAT DO YOU MEAN

PS - WHAT I'M SAYING IS I'M NOT
SAYING ANYMORE MAKE YOUR
DECISION AND LET RESPONSIBILITY REST
WITH THE OTHER ISSUES. YOU HAVEN'T
GOT IT IN YOU TO HELP ANYONE



PS
A McCarry

NOT HEARD ANYONE SAY YOU'VE HELPED
THEM IN THIS REGS

SL - THATS RESONAR

BT - I DONT MEAN IT RESONAR THATS
MY OPINION

JR - JUST TO RECAL 9 TIMES ON PERK
IN 2 YEARS.

3 MEETINGS WITH JENNY

1ST ON 31.10.08

TO PERK IN LIGHTED AREAS BUT NOT
FOR PROLONGED PERIODS

2ND ON 18.05.09

AS LONG AS 2 SETS OF NEW STEPS
HANG BEG LIVED THE PROCEED THROUGH
SIA PROCESS

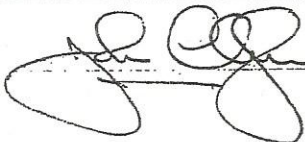
3RD ON 21.01.10

OBTAINING A MEDICAL REPORTS FROM
ROSEAL AND WAM MEET WITH HIM
AGAIN

IS THIS ALL CORRECT

PST - YES

JR - ~~IM~~ IM GOING TO ADJOURN TO GO
OVER SOME OTHER INFO

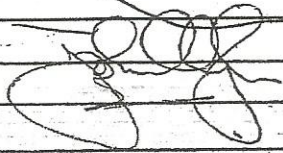


Perk A M Conway

ADMITTED @ 04:23

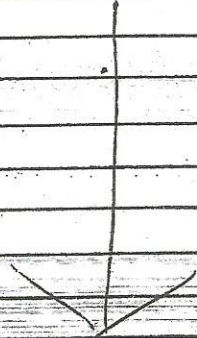
RE - STARTED @ 04:

JC - BEEN THROUGH EVERYTHING AGAIN I'M COMING
TO RECAL YOU TO THE DIF - MISSING OFFICER
RUE TO THE HIGH LEVEL OF PRESENCE 41%
AND THE 2ND MEETING WITH JEMMY
SAYING THAT YOU WEREN'T COVERED
BY THE DDA AND TO FOLLOW SVA
PROCESS IF NEXT STEPS IN PUFFE



RECAL

ATM 0204



SHIFT Manager John CLEWCHAM,
SAYING I'M NOT COVERED
BY THE DDA.

WHAT JOHN CLEWCHAM
HAD SAID WAS SOMETHING
THAT HE COULDN'T HAVE
KNOWN; ONLY A LEGAL COURT OF
LAW CAN SAY WHO IS COVERED,
UNDER THE DDA AND WHO ISN'T.

Attendance Review Meeting Checklist

Name of individual	Peter Still	Notetaker Name and Position	
Date of Attendance Review Meeting	14/2010	Representative	
Attendance Review Number	13	Manager Name and Position	JOHN CENACIAN SHIFT MANAGER
Meeting outcome (complete after meeting held)		Start Date: Is this within 6 months of absence?	Yes/No

BEFORE THE MEETING

- Check that the meeting is planned within 7 calendar days of the individual's return.
- Check the individual's file to assess their absence history.
- Is the individual still within their first 6 months of employment? Yes/No.
- Record reason for current absence. LOWER BACK PAIN
- Identify the current absence picture for the last 26 weeks:
- Current absence % (taken from the Welcome Back Meeting) 50.8 %
 - Number of absence's in the last 26 weeks? 4 occasions
 - Reasons for absence
LOWER BACK PAIN
BACK PROBLEM SPONDYLITIS
ANXIETY AND STRESS
- (Ensure lateness is excluded. If there is repeated lateness address this separately as misconduct.)
- Are there any previous periods of absence that are mitigating in the last 26 weeks? Yes/No
List them here: _____
- Have all mitigating absences in the last 26 weeks been removed from the absence calculation Yes/No
If not:
- Re-calculate the review level excluding mitigating absences _____ %
 - Is the individual still over the review level? Yes/No
- Are there any domestic absences in the last 26 weeks? Yes/No
List them here: _____
- Are there absences that may indicate a recurring illness? Yes/No
- If yes, list them here: SORE BACK OVER A YEAR AGO.
- Are there any next steps that need to be reviewed in cases of recurring illness or domestic absence? Yes/No
 - Do they link to the current absence reason? Yes/No
 - Is there an adjustment plan in place? Yes/No
 - Does it relate to the current absence reason? Yes/No
- Look at the individual's absence history beyond 26 weeks ("bigger picture")
- Is it now better, worse or consistent?
 - List any trends here: _____
- Is the individual currently on the monitoring process? Yes/No
- What is the stage and when does it expire? 08/05/2010
- How many times has the individual been on the monitoring process since 23/7/07?
List the individual's history on the monitoring process

Stage One	Stage Two	Stage Three
29/8/2008	30/10/2008	29/01/2008
26/10/2007	03/01/2008	13/03/2009
		08/05/2010

Attendance Review Meeting Checklist

- Discuss the preparation work with your line manager, Attendance Coach or Personnel and Training Manager to ensure that the key points have been established before the start of the meeting
- Ensure you have records of previous Attendance Reviews to hand, as well as copies of next steps or adjustment plans.

AT THE MEETING

- Inform the employee that this is a meeting regarding their current level of absence which is over the review level. (This could be their increased review level if covered by the Disability Discrimination Act)
- Stress this is not a disciplinary meeting but could lead to dismissal
- Offer representation. (Ensure new starters / young employees / non English speakers understand their right to representation and can follow the process).
- Outline the meeting process explaining that the current absence history and bigger picture absence will be reviewed. A decision will be made on appropriate action to take that will support the employee to attend work.
- Discuss the current reason for absence and any other absences in the last 26 weeks
 - How can we support the individual?
 - What have they done to prevent further absences occurring?
 - Did they attend the doctor - what was the result of the visit?
 - Do we need to make any adjustments on a temporary basis?

Mitigation

- Considering the current absence and the last 26 weeks absences :
 - Is the current absence mitigating? Yes/No
 - Having removed the mitigating circumstances is the absence level now below the review level? Yes/No

If you have answered YES to either or both questions above inform the employee that as there are mitigating absences you will not be taking any further action. Where necessary record any next steps identified.

Inform the employee that should they have absences in the future it may lead to action being taken

- Record your decision in 'Informing your decision' at the end of the checklist.
- The employee and individual should sign copies of the notes.

End meeting

Excellent attendance history

- Review in detail the bigger picture absence - look back beyond 26 weeks. Discuss any trends or patterns. Discuss any actions taken previously.

1. Are there absences in the bigger picture review? Yes/No
2. Are they indicating an unacceptable absence history in the past? Yes/No
3. Have previous Attendance Review taken place Yes/No

If you have answered NO to the questions above consider it is reasonable to conclude that this current absence performance is a one off in an otherwise excellent attendance history. If this is the case inform the employee that on this occasion no further action will be taken, however, action may be taken in the future if the level of attendance is considered to be unacceptable.

- Record your decision in 'Informing your decision' at the end of the checklist
- The employee and individual should sign copies of the notes.

End meeting

Recurring / domestic / sporadic (circle as applicable)

Recurring Illness

- From the bigger picture review consider if there could be one illness causing recurring absence? If yes discuss and record what this illness is _____
- What actions has the employee made already to improve attendance?
 - How can we support the employee to improve attendance?
 - Review any next steps already made
 - Review any adjustment plan already in place
 - Are the activities and timescales on the next steps or adjustment plan correct?
 - Could we reasonably expect to see an improvement in attendance with the next steps adjustments identified?
 - Have you considered if the individual is covered by the Disability Discrimination Act?

Attendance Review Meeting Checklist

Name of individual	PETER STILL	Notetaker Name and Position	
Date of Attendance Review Meeting	21/4/2010	Representative	
Attendance Review Number	14.	Manager Name and Position	ROBERT MILNE SHIFT MANAGER
Meeting outcome (complete after meeting held)		Start Date: Is this within 6 months of absence?	Yes/No

BEFORE THE MEETING

- Check that the meeting is planned within 7 calendar days of the individual's return.
- Check the individual's file to assess their absence history.
- Is the individual still within their first 6 months of employment? Yes/No NO
- Record reason for current absence. BACK PAIN 18/04/2010
- Identify the current absence picture for the last 26 weeks:
 - Current absence % (taken from the Welcome Back Meeting) ~~43~~ 50.76 %
 - Number of absence's in the last 26 weeks? 5 occasions
 - Reasons for absence
 - 26/03/2010 - 09/04/2010 - 11 DAYS BACK PAIN
 - 28/01/2010 - 18/03/2010 - 38 DAYS BACK PAIN
 - 26/12/2009 - 27/12/2009 - 2 DAYS SUPPORTING CREW
- (Ensure lateness is excluded. If there is repeated lateness address this separately as misconduct.)
- Are there any previous periods of absence that are mitigating in the last 26 weeks? Yes/No
List them here: _____
- Have all mitigating absences in the last 26 weeks been removed from the absence calculation Yes/No
If not:
 - Re-calculate the review level excluding mitigating absences _____ %
 - Is the individual still over the review level? Yes/No
- Are there any domestic absences in the last 26 weeks? Yes/No
List them here: _____
- Are there absences that may indicate a recurring illness? Yes/No
- If yes, list them here: _____
- Are there any next steps that need to be reviewed in cases of recurring illness or domestic absence? Yes/No
- Do they link to the current absence reason? Yes/No
- Is there an adjustment plan in place? Yes/No
- Does it relate to the current absence reason? Yes/No
- Look at the individual's absence history beyond 26 weeks ("bigger picture")
 - Is it now better, worse or consistent?
 - List any trends here: _____
- Is the individual currently on the monitoring process? Yes/No NO
- What is the stage and when does it expire? STAGE 3 08/05/2010
- How many times has the individual been on the monitoring process since 23/7/07?
List the individual's history on the monitoring process

Stage One	Stage Two	Stage Three
29/08/2008	30/10/2008	29/01/2008
26/10/2007	03/01/2008	13/03/2009
		08/05/2010

Attendance Review Meeting Checklist

- Discuss the preparation work with your line manager, Attendance Coach or Personnel and Training Manager to ensure that the key points have been established before the start of the meeting
- Ensure you have records of previous Attendance Reviews to hand, as well as copies of next steps or adjustment plans.

AT THE MEETING

- Inform the employee that this is a meeting regarding their current level of absence which is over the review level. (This could be their increased review level if covered by the Disability Discrimination Act)
- Stress this is not a disciplinary meeting but could lead to dismissal
- Offer representation. (Ensure new starters / young employees / non English speakers understand their right to representation and can follow the process).
- Outline the meeting process explaining that the current absence history and bigger picture absence will be reviewed. A decision will be made on appropriate action to take that will support the employee to attend work.
- Discuss the current reason for absence and any other absences in the last 26 weeks
 - How can we support the individual?
 - What have they done to prevent further absences occurring?
 - Did they attend the doctor - what was the result of the visit?
 - Do we need to make any adjustments on a temporary basis?

Mitigation

- Considering the current absence and the last 26 weeks absences :
 - Is the current absence mitigating? Yes/No
 - Having removed the mitigating circumstances is the absence level now below the review level? Yes/No

If you have answered YES to either or both questions above inform the employee that as there are mitigating absences you will not be taking any further action. Where necessary record any next steps identified.

Inform the employee that should they have absences in the future it may lead to action being taken

- Record your decision in 'Informing your decision' at the end of the checklist.
- The employee and individual should sign copies of the notes.

End meeting

Excellent attendance history

- Review in detail the bigger picture absence - look back beyond 26 weeks. Discuss any trends or patterns. Discuss any actions taken previously.
 1. Are there absences in the bigger picture review? Yes/No
 2. Are they indicating an unacceptable absence history in the past? Yes/No
 3. Have previous Attendance Review taken place Yes/No

If you have answered NO to the questions above consider it is reasonable to conclude that this current absence performance is a one off in an otherwise excellent attendance history. If this is the case inform the employee that on this occasion no further action will be taken, however, action may be taken in the future if the level of attendance is considered to be unacceptable.

- Record your decision in 'Informing your decision' at the end of the checklist
- The employee and individual should sign copies of the notes.

End meeting

Recurring / domestic / sporadic (circle as applicable)

Recurring illness

- From the bigger picture review consider if there could be one illness causing recurring absence? If yes discuss and record what this illness is _____
- What actions has the employee made already to improve attendance?
 - How can we support the employee to improve attendance?
 - Review any next steps already made
 - Review any adjustment plan already in place
 - Are the activities and timescales on the next steps or adjustment plan correct?
 - Could we reasonably expect to see an improvement in attendance with the next steps adjustments identified?
 - Have you considered if the individual is covered by the Disability Discrimination Act?

Domestic absence

- If there are domestic absences in the current absence history discuss how we can support the employee to prevent a reoccurrence? What have they done themselves?
If next steps are already in place could we reasonably have expected them to address the domestic absence?
Are there other next steps that could help resolve the situation?

Sporadic Absence

- Where there is a pattern of sporadic absences that are not linked discuss what else the employee believes can be done to improve attendance. Can we help?
- Ask the employee if there is anything else they feel should be considered. Summarise your discussion so far.
- Inform the employee that you will now consider the points discussed and will adjourn the meeting.

Adjournment

Time meeting adjournedam/pm

The employee and representative should read and sign the notes completed so far.

EXAMINING THE KEY POINTS

- Consider the key points discussed at the meeting and review your preparatory work

Sporadic Absence and Domestic Absence

- Is it reasonable to conclude that this is a 'bad patch' in an otherwise good attendance history where we have already spoken to the employee before?

If **YES**:

You could take no further action. Otherwise consider placement onto a stage of the process - record your decision and reason in the section 'Informing your decision'

If **NO**:

- Is it reasonable to conclude that the current level of attendance is unacceptable? The employee has been spoken to previously and next steps are not applicable.
Is the absence having an adverse effect on the business? Does the bigger picture indicate a poor attendance history?

If **YES** you should consider placement onto a stage of the process.

If the individual has already been on stage monitoring twice in the previous 2 years, starting 23/07/07 this will mean placement on stage three.

If the individual has less than 6 months service this will mean placement on stage three.

If the individual is already on stage three of the monitoring process this will mean referral to a disciplinary meeting.

Record your decision and reason in the section 'Informing your decision'

If **NO** you are agreeing that the level of attendance is acceptable and should set up to two sets of next steps to support the individual to attend work to an acceptable level. Record your decision and reason in the section 'Informing your decision'

Recurring Illness

- If there is a recurring illness consider if the individual is clearly covered by the Disability Discrimination Act? Refer to your Personnel and Training Manager who will be able to guide you.

Clearly covered by Disability Discrimination Act

- You should adjourn to put an adjustment plan in place with the support of the Personnel and Training Manager or if an adjustment plan is already in place consider further adjustments that can be made until all adjustments have been exhausted.
- If you consider all adjustments have been made, you need to consult with the Personnel and Training Manager to confirm this and agree how you will proceed regarding a possible dismissal for incapability due to ill health. Record your decision and reason in the section 'Informing your decision'

Attendance Review Meeting Checklist

Not clear to you that the employee is covered by the Disability Discrimination Act

- Check with the Personnel and Training Manager or Attendance Coach if they believe the individual may be covered by the Disability Discrimination Act
If YES, plan a time with the individual and the Personnel and Training Manager to develop the adjustment plan – Record your decision and reason in the section 'Informing your decision'
If NO you should consider if next steps can be taken to support the individual, if there is, take a next step after the meeting to develop them, or consider the possibility further.
If no next steps can be identified consider placement on the monitoring process
Record your decision and reason in the section 'Informing your decision'
- If you are about to place an individual with a recurring illness onto Stage Three and they could face dismissal with one more absence, make a final check with the Personnel and Training Manager for cover under the Disability Discrimination Act. Continue with the adjournment until this check has been made.
If now covered you should put an adjustment plan in place as per the 'Clearly covered by the Disability Discrimination Act in this checklist.'

Informing your decision

Have you considered all points in the attendance history? Have you reached a decision that is considered reasonable given the information the employee has given? Yes/No

Reconvene the meeting. Ask any further questions that may have come to light following your review of the key points. Does the employee have anything further they wish to add? Yes/No

Explain your decision to the employee giving reasons (Tick one box)

- No further action record reasons: (mitigation or excellent attendance history) -----
- Remove from monitoring process and place on an adjustment plan – (A recurring illness that is clearly covered by Disability Discrimination Act
- Place on a stage of the monitoring process
Stage 1 Stage 2 Stage 3
- Set next steps (Domestic absence or recurring illness – up to 2 sets only)
- Refer to Dismissal Officer (At stage 3 of monitoring)

Additional Activity

- Issue the relevant stage placement confirmation form.
- Ensure copies of the next steps are given to the individual. Record them below.
- If an adjustment plan is required arrange a further meeting with the individual, Line Manager and Personnel and Training Manager. If not already issued, issue a recognising recurring illness letter.
- If the employee may face dismissal inform them that a letter will be sent inviting them to a meeting which will be held with a minimum of 48 hours notice.
- The employee and representative should sign each page of the notes.

Next steps	Who	When

MANAGER SIGNATURE _____

DATE _____

INDIVIDUAL SIGNATURE _____

DATE _____

GRIEVANCE CHECKLIST

DISCRIMINATION/HARASSMENT/BULLYING

Grievance arising from a Discrimination, Harassment or Bullying Complaint.

Use this checklist in any formal grievance hearing concerning allegations of harassment or bullying. Tick each box to show you have considered each item.

Preparation

- Ensure that the Tesco Grievance Procedure will be followed in full.
- To ensure fairness, a member of the personnel function hearing the grievance must not have had any previous involvement in the circumstances which have led to the formal grievance being lodged.
- Examine the employee's Grievance Registration Form to establish the basis upon which the grievance is being raised.
- Examine any written documentation provided by the employee to support the grievance, e.g. personally recorded details of incidents informal approaches to stop unacceptable behaviour, statements from other employees etc.
- Examine the employee's personal file and training record to gain an overall picture of the individual, in particular reviewing any previous complaints concerning harassment or bullying.
- If the alleged harasser or bully is named on the Grievance Registration Form, examine that employee's personal file and training record to gain an overall picture of the individual, in particular reviewing any previous complaints concerning harassment or bullying.
- Establish on a confidential basis whether the employee raising the grievance has tried to use informal action to prevent unacceptable behaviour in the past.
- Meet with the employee to confirm the date, time and place of the grievance hearing stressing the confidentiality of the circumstances, how the sensitivity of the situation is understood and that at no time during the hearing will the alleged harasser/bully and the employee raising the grievance be interviewed together.
- Inform the employee of his/her right to representation, pointing out that additional support is available to them, this could be a person of the same sex, race, religion, etc., or someone who is familiar with their circumstances – if representation is required,

Jan 2005

May 2003

TERMS OF EMPLOYMENT

Grievance Checklist – Discrimination/Harassment/Bullying

- Through questioning and listening carefully to the responses, clearly come to a conclusion as to the employee's view of the behaviour.
 - For a case of harassment, the behaviour would have to be unwanted, unreasonable and offensive which has created an intimidating, hostile or humiliating working environment.
 - For a case of bullying the behaviour would have to be unwanted, vindictive, cruel and malicious which has humiliated and undermined the individual.
 - Look for other signs of potential damage such as victimisation, failing to promote etc.
- Establish if the employee has any documentary evidence to support the grievance, examine this in detail and ask as many questions as necessary to establish its validity.
- If the employee wants to call any witnesses, they may be seen individually, question their evidence objectively and allow the employee and his or her representative to ask any further questions as necessary – stress to the witnesses that the information is confidential.
- Summarise the key points of the grievance so there is no misunderstanding of the basis on which it will be decided.
- Explain that the meeting will now have to be adjourned for a sufficient amount of time to allow a thorough investigation to take place which will include giving the alleged harasser/bully every opportunity to state his or her case, and if necessary any witnesses to be interviewed.
- Ask the employee what they would like the outcome to be.
- Agree with the employee and his or her representative, that the date, time and place of the reconvened meeting will be arranged as quickly as possible and this is documented in the notes.

Investigation

- If the alleged harasser/bully was not named before the grievance hearing, inform him or her that a formal grievance has been raised, a meeting with the complainant has been held, the matter is being treated as confidential, once further investigations have been completed there will be every opportunity for the accused to state his or her case and that no discussions should be entered into with the complainant in the meantime about

Jan 2005

May 2003

TERMS OF EMPLOYMENT

Grievance Checklist – Discrimination/Harassment/Bullying

the matter will now be reported to the appropriate Line Manager to consider whether disciplinary action/further investigatory suspension is appropriate and he/she will be informed of the outcome as soon as possible.

- If the employee's explanation is accepted and no further action needs to be taken, inform the employee that this is the case but ask that the matter should not be discussed with complainant.
- Ensure the notes are read and signed by the employee.

Examining the evidence

- Re-examine the evidence in the light of the employee's response and conduct any further investigation as appropriate.
- Establish if, on the balance of the evidence, you genuinely believe that an act of harassment or bullying has been committed. If it has then:
 - You must report the fact to the appropriate Line Manager and hand over all of the evidence to allow a disciplinary hearing to take place.
 - In addition, if in light of the investigation the employee may have committed an act of gross misconduct, he/she will have to be suspended on full-pay, so the matter must be reported to the appropriate Line Manager with extreme urgency.
- If new evidence proves there is no case to answer, inform the accused employee, but ask that the matter should not be discussed with the complainant.
- If there are no grounds for upholding the grievance, then the grievance meeting can be reconvened.
- If the matter has been referred for disciplinary action, then inform the complainant and delay reconvening the meeting until the disciplinary matter has been decided.

The Reconvened Grievance Hearing

- Reconvene the meeting and clearly inform the employee what decision has been made and why. i.e. the person has been disciplined appropriately, details of the discipline should remain private and confidential.
- If the employee want to refer the matter to the next stage, inform him or her of the procedure.

- Complete the Grievance Registration Form confirming the employee's decision and assist the employee to go to the next stage, if appropriate.

- Place the following documents in the employee's personal file as appropriate:
 - Copy of the written confirmation of the result.
 - Copy of any witness statements.
 - Copy of the signed notes taken.
 - Copy of this checklist confirming the procedural steps taken.

Private & Confidential

TESCO

Tesco Distribution Ltd
Carnegie Road
Livingston
West Lothian
EH54 8TB

Tel: 01506 779300
Fax: 01506 779348

Peter Still
107 Falside Crescent
Bathgate
West Lothian
EH48 2DS

23 April 2010

Dear Peter


I have received your letter regarding a Health and Safety / Dignity at Work grievance.

To clarify all the points you have raised Peter I would like to invite you to speak to Tom McGroarty – Shift manager in Fresh to discuss these in more detail.

Date : 26th April 2010
Venue : Livingston
Time : 15.00.

Please can you contact us by telephone on 01506 779321/322 as soon as possible if you have any concerns or issues about this

Yours sincerely
For and on behalf of
TESCO STORES LIMITED


Robbie Panton
Personnel and Training Executive

INVESTIGATORY HEARING NOTES

DATE: 27th April 2010 TIME: 11:00am

PRESENT

Employee: Peter Stull ()

Manager: Ali MacDonald ()

Employee Rep: _____ ()

Note Taker: Isabel Colvill ()

A - Asked to meet with you re letter. Put u -
Not here to hear grievance, try to establish
what's in letter - said DAW + HTS - explain

P DAW, only way at working it, didn't want Mgr
from dd site

A do u feel that is relevant now - dd site

P NO - HTS

A explain

P goes back to access road - Bruce B - dd
Mgr

A How for basic

P Was dismissed 2005, so about 2006 -
I had said to DO - about change of area - said
he would have to speak to Shift Mgr - R. Ramsay.
Said ok but nothing happened, went dt work
with back pain - an return was referred to DO -
got dismissed. Appealed it heard by Joanne
Ratcliffe, got overtime I had hearing, Bruce
was dt site - went on for about 4 months
overway - decided I got job back, - started back

PSM

IC

found out B.B. - still Mgr. also told I would see OCC Health - + get report. however none of that happened - until came over here - if I get the help then it would have helped.

A - Came over here done a lot to help

P - Yes - Craeme Miller / David Miller helped a lot over here, but said notes weren't in file.

A - Notes from Miller - you were re-instated here (file reads through notes) - saw a medical report consent

P - yes

A - saw no back pain since left.

P - yes -

A - ok so had mtg. DTW - help me understand -

P - had mtg with Bruce, he apologized - he left saying it took ages to see OH - slighted many getting picked up for conduct - investigation mtgs - felt Personnel not behaved at the time spoke to Jason Smith - eventually got grievance form - after about 6 weeks - she said she would speak to J. Caldwell - again nothing happened - when I came over here had T. Fulton as Mgr - told him - he said I was going to night shift - also spoke to B.B. - felt T was being paranoid -

A - So situation - Moved over here, referred to OH - and had adjustment plan - so why grievance now - is it relevant - due to position or in

P - well yes no - going to lose house - business at with stress - GP - said, no lawyer - but would look into it - took advice, and was advised

Retu
IE



to grievance it.

A let me have a short adjourned. 11.15am.

Meeting reconvened at 11.37am

A - ok wanted to have a look at grievances -
Let old site against John

P yes - said to Alison Leitch.

A you signed that one off as resolved

P yes

A other one, grievance was when U came across
house

P That's right -

A Also signed off as resolved

P yes that was with Tom McGrady - wanted to
find out why wasn't helped -

A signed off - resolved - wanted to move forward

P didn't realise I could take it further.

A Terms of HHS - grievance was Aug 08 - signed
off

P T. McGrady - said he would speak to Bruce

A Since came across house, job adjustment
has been good - seen off

P yes - but if I got that help across the road -
would have helped

A Not due any picking since on this site

Per M

IC



P NO- When I came across her, get Steve
Caves at mgr-

A But referral has taken place, and Alan put
in place-

P I don't want to be off work, but feel if I
had got the help across the road would
have helped- Should have had risk assessment-

A depends on health issue-

P don't know if OH if we get medical report

A What would you want out of grievance

P Not to be put in this position- I just
want to be at work-

A. Need to understand where do u think grievance
can go- Ready to be D.O- bigger issues-
do u think you could be dismissed

P Yes- I think so.

A My opinion- would it be better if you went
to D.O- and depending on result, you have a
right to appeal

P Yes- I personally feel John Clenaghan doesn't
like me-

A do u understand where I am coming from-

P Yes-

A Already signed off a couple of grievances as
being resolved- If you feel worse with absence,
then you should discuss this with the D.O-
Process for employees-

Patricia

TC



IC/DC

Private & Confidential

HAND DELIVERED

Mr Peter Still
107 Falside Crescent
Bathgate
West Lothian
EH48 2DS

TESCO

Tesco Distribution Ltd
Carnegie Road
Livingston
West Lothian
EH54 8TB

Tel: 01506 779300
Fax: 01506 779348

27 April 2010

Dear Peter

You are required to attend a disciplinary meeting as follows:

With: Guy Henderson, Shift Manager
Date: Friday, 30 April 2010
Time: 11.00am.
Venue: Carnegie Road, Livingston DC – please report to the main Reception.

This meeting is to discuss your further absence whilst on Stage 3 of the SYA process.

You may have a representative with you who can be either;

- A person who is employed by the union as an official.
- Another union official who is certified by a union as having received training in acting as a worker's companion at disciplinary and grievance procedures.
- A fellow Tesco employee

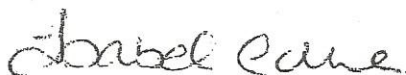
If you would like a representative, please advise us as to who will be accompanying you prior to the meeting. The representative is;

- Chosen by the employee and is one of the above
- Permitted to address the hearing
- Permitted to confer with the employee during the hearing.

Please be advised that this hearing may result in disciplinary action being taken against you, up to and including dismissal.

If you are unable to attend the meeting or have any queries please contact me immediately to discuss an alternative date/time. You can contact our office on 01506 779321 or 779322.

Yours Sincerely,
For and on behalf of
Tesco Stores Ltd



Isabel Collie
Personnel & Training Executive

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Attendance Review Meeting Checklist

Domestic absence

- If there are domestic absences in the current absence history discuss how we can support the employee to prevent a reoccurrence? What have they done themselves?
If next steps are already in place could we reasonably have expected them to address the domestic absence?
Are there other next steps that could help resolve the situation?

Sporadic Absence

- Where there is a pattern of sporadic absences that are not linked discuss what else the employee believes can be done to improve attendance. Can we help?
- Ask the employee if there is anything else they feel should be considered. Summarise your discussion so far.
- Inform the employee that you will now consider the points discussed and will adjourn the meeting.

Adjournment

Time meeting adjournedam/pm

The employee and representative should read and sign the notes completed so far.

EXAMINING THE KEY POINTS

- Consider the key points discussed at the meeting and review your preparatory work

Sporadic Absence and Domestic Absence

- Is it reasonable to conclude that this is a 'bad patch' in an otherwise good attendance history where we have already spoken to the employee before?

If YES:

You could take no further action. Otherwise consider placement onto a stage of the process - record your decision and reason in the section 'Informing your decision'

If NO:

- Is it reasonable to conclude that the current level of attendance is unacceptable? The employee has been spoken to previously and next steps are not applicable.
Is the absence having an adverse effect on the business? Does the bigger picture indicate a poor attendance history?

If YES you should consider placement onto a stage of the process.

If the individual has already been on stage monitoring twice in the previous 2 years, starting 23/07/07 this will mean placement on stage three.

If the individual has less than 6 months service this will mean placement on stage three.

If the individual is already on stage three of the monitoring process this will mean referral to a disciplinary meeting.

Record your decision and reason in the section 'Informing your decision'

If NO you are agreeing that the level of attendance is acceptable and should set up to two sets of next steps to support the individual to attend work to an acceptable level. Record your decision and reason in the section 'Informing your decision'

Recurring Illness

- If there is a recurring illness consider if the individual is clearly covered by the Disability Discrimination Act? Refer to your Personnel and Training Manager who will be able to guide you.

Clearly covered by Disability Discrimination Act

- You should adjourn to put an adjustment plan in place with the support of the Personnel and Training Manager or if an adjustment plan is already in place consider further adjustments that can be made until all adjustments have been exhausted.
- If you consider all adjustments have been made, you need to consult with the Personnel and Training Manager to confirm this and agree how you will proceed regarding a possible dismissal for incapability due to ill health. Record your decision and reason in the section 'Informing your decision'

ATTENDANCE REVIEW HEARING NOTES

DATE: 30/4/10 TIME: 11.25

PRESENT

Employee: Peta Still ()
 Manager: John Gulchurst ()
 Employee Rep: Robert Deary ()
 Note Taker: Robbie Panton ()



JL This is an am. - R v ok to continue
P YN

JL Meeting to discuss current reason of absence
Not a disc. meeting but could lead to
dismissal for SYA policy

R. Deary here to represent v.

JL Look @ previous history of absences
please stop me if you want to
discuss anything related to this

To discuss support etc. -

Recent absence - lower back pain

Did v go to doctor - most recent

P NO, NOT

JL Did v take any medication?

P NO

JL Previous absence back pain - did v
go to doctor PD

Peta

151

P BB was my manager again - it was his fault I was dismissed - no letter in file

Came back to work - saw S. Caves spoke to OB. came back to do my work. - BB assured me he would help

But I was on pick every day - no help for Risk Assess to see what / personnel.

He hadn't seen personnel - explained to BB and J. Smith - asked for a grievance form from G. Bogle - to make personnel aware of situation.

I didn't want to take it any further. I was treated badly - not given a fair chance.

J Okay lots of info then. Thanks for that

P I spoke to Al - didn't want to see any manager from old site. I then saw Alby (M4) and explained everything to him to make a decision.

He said I should mention everything to you + D/O and not @ the appeal stage.

I didn't know about it before

J We will adjourn this a present: 11:55 am.

Reconvene @ 12:07

J Meeting reconvened
Angus to add.

P NO

Meeting NO

J OK looking @ what I said I have looked up ur absences @ 52.90%
No appt to refer you to D/O (D)

WAD Au

ATTENDANCE REVIEW HEARING NOTES

DATE: _____ TIME: _____

PRESENT

Employee: _____ ()


Manager: _____ ()

Employee Rep: _____ ()

Note Taker: _____ ()

J' Please note, mt became v want to go to D/O.

that concludes w/ ARM today - all ARM concluded to date.

Please read notes + sign There 



Attendance Review Meeting Checklist

Not clear to you that the employee is covered by the Disability Discrimination Act

- Check with the Personnel and Training Manager or Attendance Coach if they believe the individual may be covered by the Disability Discrimination Act
If YES, plan a time with the individual and the Personnel and Training Manager to develop the adjustment plan – Record your decision and reason in the section 'Informing your decision'
If NO you should consider if next steps can be taken to support the individual, if there is, take a next step after the meeting to develop them, or consider the possibility further.
If no next steps can be identified consider placement on the monitoring process
Record your decision and reason in the section 'Informing your decision'
- If you are about to place an individual with a recurring illness onto Stage Three and they could face dismissal with one more absence, make a final check with the Personnel and Training Manager for cover under the Disability Discrimination Act. Continue with the adjournment until this check has been made.
If now covered you should put an adjustment plan in place as per the 'Clearly covered by the Disability Discrimination Act in this checklist.

Informing your decision

Have you considered all points in the attendance history? Have you reached a decision that is considered reasonable given the information the employee has given? Yes/No

Reconvene the meeting. Ask any further questions that may have come to light following your review of the key points. Does the employee have anything further they wish to add? Yes/No

Explain your decision to the employee giving reasons (Tick one box)

- No further action record reasons: (mitigation or excellent attendance history) -----
- Remove from monitoring process and place on an adjustment plan – (A recurring illness that is clearly covered by Disability Discrimination Act
- Place on a stage of the monitoring process
Stage 1 Stage 2 Stage 3
- Set next steps (Domestic absence or recurring illness – up to 2 sets only)
- Refer to Dismissal Officer (At stage 3 of monitoring)

Additional Activity

- Issue the relevant stage placement confirmation form.
- Ensure copies of the next steps are given to the individual. Record them below.
- If an adjustment plan is required arrange a further meeting with the individual, Line Manager and Personnel and Training Manager. If not already issued, issue a recognising recurring illness letter.
- If the employee may face dismissal inform them that a letter will be sent inviting them to a meeting which will be held with a minimum of 48 hours notice.
- The employee and representative should sign each page of the notes.

Next steps	Who	When

MANAGER SIGNATURE John Giddens

INDIVIDUAL SIGNATURE Peta

DATE 30-4-10

DATE 30-4-10

DAY SINCE RE-INSTATED TIL I CAME
EVENING

GOT NEW DOCTOR HE ADVISED THAT RECO
WAS BREACHED DUTY OF CARE UNDER H&S
AND AFTER SPEAKING WITH THEM THEY GAVE
ME THE NO. FOR ACAS FOR WHICH THEY
WAVE ADVISED ME WHAT TO DO.

DIDN'T WANT TOM McGRATHY TO LEAD AS HE
WAS IN THE OLD SITE SO WAS ASKED
IF I WOULD ACCEPT AN. McDONNELL AND
I SAID YES

IT WAS AGREED TO HAVE DISMISSING OFFICER
ON PAYDAY 30/06/2010 WHICH WAS ADDUCED
FOR FURTHER INVESTIGATION

WAS ASKED TO PHONE BRUCE ACAS TO REVEAL
THE OUTCOME. THE ADVICE WAS TO PASS
A GUIDANCE AGAINST THE COMPANY AND
MANAGER THAT DON'T FOLLOW THE
PROCEDURE.

I WOULDN'T BE IN THIS POSITION IF THE
COMPANY HAD FOLLOWED THE AGREEMENT OF
THE RE-INSTATERS BY DAVID PATRICK

IA - YOUR UNDERSTANDING OF THE PROCESS WITH
GUY

PS - NOT SAYING THAT HE WILL INVESTIGATE OR
NOT

IA - WHAT'S DIFFERENT FROM YOUR MEETING
WITH GUY

FROM 

PST - YES THATS ARE

POSTER

A

(125)

(d)

Page 4.

(28)

TESCO

KM/le

Tesco Distribution Ltd
Carnegie Road
Livingston
West Lothian
EH54 8TB

7th May 2010

Mr Peter Still
107 Falside Crescent
Bathgate
West Lothian
EH48 2DS

Tel: 01506 779300
Fax: 01506 779348

Dear Peter

You are required to attend a reconvened disciplinary meeting with Guy Henderson, Shift Manager, on Thursday, 13th May 2010 at 11.00 am. The venue will be the new site at Carnegie Road, Livingston. It has been authorised for you to be off work on Wednesday, 12th May so you will be able to attend this meeting.

This meeting is to discuss your absence whilst on stage 3 of the SYA Procedure.

You are entitled to have a representative with you who can be either:

- a person who is employed by the union as an official;
- another union official who is certified by a union as having received training in acting as a worker's companion at disciplinary and grievance procedures;
- a fellow Tesco employee.

If you would like a representative, please advise us as to who will be accompanying you prior to the meeting.

The representative is:

- chosen by the employee and is one of the above;
- permitted to address the hearing;
- permitted to confer with the employee during the hearing.

Please be advised that this hearing may result in disciplinary action being taken against you, up to and including dismissal.

If you are unable to attend the meeting, please contact me immediately to discuss an alternative date/time. My telephone number is 01506 779300.

In the meantime, if you have any queries, please speak to Isabel Collie, Personnel & Training Executive.

Yours sincerely
For and on behalf of
TESCO STORES LIMITED

Isabel Collie

pp Kara Mathieson
Personnel & Training Manager

(197)

DISCIPLINARY HEARING NOTES

DATE: 13/5/10 TIME: 11:00 Am

PRESENT

Employee: Peter Still ()
 Manager: Guy Henderson ()
 Employee Rep: ~~Robert Deary~~ ()
 Note Taker: Robbie Pantou ()

GH: Are u happy to continue without a union rep. Are u sure u dont want anyone else.

P: Yes: R. Deary is babysitting, just go on.

GH: Reconcile from 30/4/10 meeting - could still result in dismissal.
Recap on left it on 30/4/10 you had asked about a few issues for me to investigate
I have done this and will let u know

To recap dismissed 11/11/05
Reinstated 22/2/06

Claimed that J. Radloff should be laid to rest:
What was that.

AS: Sign a doc consent form - complete M Handling
R. Keresmet.
Right side or child to help me

I came back it didnt happen - it would

take a while. I saw personnel - nothing
else happened.

I was then investigated for performance etc

GH How many occasions did I have
for back pain.

PS Cant remember. I have asked for my
personnel file
off a few times - each time I came
back I highlighted it to the manager

GH J Rad states I was re-activated
"as long as I fulfil my contract, we
will fulfil ours"

I will write to confirm this.

You had to start back as soon as possible.
W. Keeley said Peter was happy

No back pain since I left here.

Rats what J Rad said.

Now talk about MH. / Job Adjustment plan

PS If you speak to her she will let u
know what she said

My letter from the doctor has went
missing

I said to BB - nearly all stage 2. at the time
I asked for a help to go to 7/2 all
the time.

Rab Ramsay decayed this - I picked them but
didn't complete the OH form

I said this to JR. I gave BO the doctor's
letter

BO went sick. no letter was given.
at that time.

GH I appreciate that - all I have is
The notes from the meeting
Q Showed to Peter
As long as you fulfil or contract me with
fulfill ours
Do v think v have done this

PS yes - turning up to work

GH That tells me v haven't.

PS If I lose my job from a medical condition
I was told that
Tesco have a duty of care to look after
me following my medical condition.

GH Terms of duty of care - We rechecked
travelling v in June 2006 - full retraining

Showed TRC - Brome - 1, 2, 3, 4, 5

Includes M. Handberg - you signed this off

PS I had been back @ work for 4 months

GH Did v declare ur back problem when v
applied for a job w. Tesco

PS I didn't have a back problem then
I didn't have one then when I started.

Q

GH Do v think if you have been
diagnosed in 1996 - Back problem
why didn't v declare that on the
H&A form.

GH H&A v answer the questions please

PS I didn't have a problem then

GH You have lied on a health questionnaire
during the interview

PS Maybe I have done, age.

GH Back problem to BB so happened.

When did v speak to BB.

PS October 2005

GH 2/3 weeks before dismissal?

PS Yes that's when I started having back pain.

GH Diagnosed B/Problem 1996 - Re-untreated

Feb 2006 - up to stage 2 - 7 months later

7 months - 7/8 occasions of absence.

In that 7 months - no instance of back pain
did v fulfill v contract

PS I was going thru the stage things

GH Have v fulfilled v contract

PS I am still here

GH Based on what TR said v haven't fulfilled v contract. What pain r v w.

PS If goes all over my back, shoulder also.
I explained that

GH Duty of care - refreshed on MH.

No stats on old site - now we can have
all the info for pits / loading
Speaking to numerous managers @ time
including Robbe, v had a fair share
on loading / picking, it's part true

PS All got was training - when staff got redundancy. I was getting used on it

Ask Tony Fruton - my other manager
He said keep it going until we move to new site

GH To clarify again - your medical history

Not currently attending physio, seeing doctor, specialist, or taking medication - explain that

PS Mod physio @ start
lots of painkillers - anti-inflammatory etc

They don't work.

Only tramadol works for me.

Doctor hasn't said anything else

GH Why hasn't the doctor referred u to specialist?

PS Don't know

GH According to IT report - no specialist since 1996

PS Inflamed pain on my legs - seen different doctors all the time

GH Not currently receiving treatment, physio or medication - not referred to a specialist - is that wrong?

PS No

GH On the issues we raised a governance in 2008 - unhappy with previous manager who u were dealing with
Bk, S-Carey R. Whyte -

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D

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G

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JK

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TESCO STORES LIMITED
RECORD OF CONTRACTUAL DISMISSAL
Short term persistent absence

Following your unacceptable level of attendance at work, your employment position has been carefully considered. Having taken full account of your comments at the disciplinary meeting held on 13/5/10, you are advised that you are contractually dismissed in accordance with the Grievance and Disciplinary Procedures for incapability due to your inability to attend work to an acceptable level. Your absence level over the last 26 weeks has been 54% covering 6 occasions and you have received the following warnings relating to your unacceptable level of attendance

- Stage 1 - Date
- Stage 2 - Date
- Stage 3 - Date
- Stage 3 - Fast Tracked Date 13/11/09 (3 times on process in rolling 2yrs)

Your last day of employment will be 13/5/10. As soon as is practical you will receive all wages owed to you along with any payment for holiday if appropriate and 1 weeks pay in lieu of notice.

If you wish to appeal against this Contractual Dismissal, you should refer to the Grievance and Disciplinary Procedures which explain what you should do.

THIS CONTRACTUAL DISMISSAL IS ISSUED BY:-

Name (please print): Guy Henderson
 Job Title: Shift Manager / Dismissing Officer
 DC Name and Number: LIVINGSTON DC
 Signature: [Signature] Date: 13/5/10

THIS CONTRACTUAL DISMISSAL IS ACKNOWLEDGED BY:-

EMPLOYEE DETAILS
 Name (please print): PETER STILL
 Job Title: WAREHOUSE OPERATIVE
 DC Name and Number: LIVINGSTON DC
 Signature: [Signature] Date: 13/5/10

EMPLOYEE REPRESENTATIVE

Name (please print): DECLINED A REP
 Signature: _____ Date: _____

37



TESCO STORES LIMITED
RECORD OF CONTRACTUAL DISMISSAL
Short term persistent absence

Following your unacceptable level of attendance at work, your employment position has been carefully considered. Having taken full account of your comments at the disciplinary meeting held on 13/5/10, you are advised that you are contractually dismissed in accordance with the Grievance and Disciplinary Procedures for incapability due to your inability to attend work to an acceptable level. Your absence level over the last 26 weeks has been 54% covering 6 occasions and you have received the following warnings relating to your unacceptable level of attendance

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If you wish to appeal against this Contractual Dismissal, you should refer to the Grievance and Disciplinary Procedures which explain what you should do.

THIS CONTRACTUAL DISMISSAL IS ISSUED BY:-

Name (please print): Guy Henderson
Job Title: Shift Manager / Dismissing Officer
DC Name and Number: LIVINGSTON DC
Signature: [Signature] Date: 13/5/10

THIS CONTRACTUAL DISMISSAL IS ACKNOWLEDGED BY:-

EMPLOYEE DETAILS
Name (please print): Peter Still
Job Title: Warehouse Operative
DC Name and Number: LIVINGSTON DC
Signature: [Signature] Date: 13/5/10

EMPLOYEE REPRESENTATIVE

Name (please print): Declined A Rep
Signature: _____ Date: _____

37



TESCO STORES LIMITED
RECORD OF CONTRACTUAL DISMISSAL
Short term persistent absence

Following your unacceptable level of attendance at work, your employment position has been carefully considered. Having taken full account of your comments at the disciplinary meeting held on 13/5/10, you are advised that you are contractually dismissed in accordance with the Grievance and Disciplinary Procedures for incapability due to your inability to attend work to an acceptable level. Your absence level over the last 26 weeks has been 54% covering 6 occasions and you have received the following warnings relating to your unacceptable level of attendance

- Stage 1 - Date
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If you wish to appeal against this Contractual Dismissal, you should refer to the Grievance and Disciplinary Procedures which explain what you should do.

THIS CONTRACTUAL DISMISSAL IS ISSUED BY:-

Name (please print): Guy Henderson
 Job Title: Shift Manager / Dismissing Officer
 DC Name and Number: LIVINGSTON DC
 Signature: [Signature] Date: 13/5/10

THIS CONTRACTUAL DISMISSAL IS ACKNOWLEDGED BY:-

EMPLOYEE DETAILS
 Name (please print): Peter Still
 Job Title: Warehouse Operative
 DC Name and Number: LIVINGSTON DC
 Signature: [Signature] Date: 13/5/10

EMPLOYEE REPRESENTATIVE

Name (please print): Declined A Rep
 Signature: _____ Date: _____

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Appeal Hearing Notes – Peter Still

Wednesday, 9th June 2010 at 12.40 pm

Present: Peter Still (Employee)
John Clark (General Manager)
Ian Fraser (Employee Rep)
Kara Mathieson (Notetaker)

JC

Ok, so here for first stage appeal against dismissal. Ian will take us through grounds and we'll take it from there, ok?

IF

Yes. I'm going to change grounds of appeal. I know Peter has submitted 5 pages of appeal letter, most of it relating to 2005/2006. We've agreed a lot of it isn't relevant to his dismissal so with your agreement, we're going to focus on recent events. Therefore, going to be short appeal including remedy Peter is seeking.

The issues from 2005/2006 no longer have relevance other than it's Peter's view that the company's inaction exacerbated his health problem.

Peter has 2 grounds:

- 1) That he's been discriminated against because of disability.
- 2) That his dismissal is unfair because of the company's failure to review other options.

Like to go through them in detail:

- 1) Peter has chronic back pain which is referred to as spondulitis. There's an email from Beverley McLean (14/8/08) relating to a conversation she had with OH. (IF reads out letter). (Including Peter has spondulitis, good idea to multiskill). Company was aware from that time that Peter had back condition and was covered by DDA. Also, a report from Jenny Thompson to Kara about what was in medical report from GP 28/1/10. That document refers to his condition and gives credence to the fact that the company should have made far more reasonable adjustments.
- 2) When look through Peter's absence record, significant number of absences and clearly all the way through that the company should have been asking whether Peter was fit to work here at all. In Peter's view you should have received options not restricted to depot.

The remedy we're seeking despite Peter's letter is reinstatement and for the company to reassess all jobs he could do throughout the company.

Refer to Jenny's letter to Kara where it says that Peter should be assessed if he could carry out loading duties and a full job assessment. Peter says none of that carried out. Peter was dismissed under SYA, should have had 5 week's notice but Peter believes he was not paid that.

JC

Think what would be useful would be to take a quick break and cross check what you've said with what information we have, as reasons for appeal have changed.

IF

Ok, here is email I referred to.

JC

Will come and get you when ready.

ADJOURNED 12.53 PM.

RECONVENED 1.26 PM.

JC

Ok, had a look at many parts of what's been said – don't think we disagree that there's a condition. Don't see anything wrong procedurally in dismissal. If you look at the referrals from Jenny, the recommendations have largely been acted on – one last 15-18 months not been an issue with what he's been doing – 99% loading. The report from Jenny: 'if it does not involve lifting/bending so much,' we have made those adjustments on nights.

Peter, have you ever raised formally that you're struggling to do job while you've been loading?

PS

No, never thought it was an option.

JC

We've made adjustments to make sure you're loading. Have you ever applied for anything else on site?

PS

No.

JC

Have been other jobs eg clerical jobs on noticeboard, not saying there's been lots but have been some.

If you look at time off this year alone, it's excessive – what's caused it?

PS

Just got worse – financially had to come back but then it got worse, went off, had to come back, lost my home and everything. Any other time I've asked for planned absence it's been unpaid.

JC

Ok, Ian mentioned about other options – Peter, what do you feel able to do? With that level of absence and adjustments we've made.

PS

I was doing alright on loading but it came on all of a sudden. Only medication I can take is Amatripalene muscle relaxant made me drowsy. Would be off and had to stop taking them before returning. It's something I have for rest of my life.

JC

Did you think it would come to dismissal?

PS

I didn't know. Didn't know about DDA or what is covered.

JC

But even when having the discussions with Team Managers/Shift Managers, it was highlighted to you where it could end up.

PS

Not trying to gain anything out of it.

JC

Not saying that but part of the discussions were around what would happen if continued to not turn up. Did you know that, did you understand?

PS

Tom McGrorty checked a couple of times but didn't put me on a stage.

JC

That was a couple of years ago. In last 12 months, it doesn't sound like you were clear about potential dismissal.

PS

Didn't think would get dismissed.

IF

What Peter's saying is that there was no financial benefit so wasn't as clear as he should've been about consequences of absence. He was coming back when he shouldn't have as needed money.

JC

What was driving you coming back for one night and then going off again?

PS

Just back was bad.

JS

What's your current financial situation?

PS

Gas has been cut off, going to lose home, they're getting court order to get electricity cut off.

JC

Some of that been going on for some time, not just past few months?

PS
Yes.

JC

Ok, think we've done investigation and referrals as I would expect, want to go away and speak to a few people and look at facts. What it will come down to is whether we can support your absence at that level, having already made significant adjustments. Have an open mind, want to check a few things off. Any questions?

IF

What we have here if we look at the final SYA overview, the last page, numbers 6, 7 and 8, Peter is back and off again, back and off again. We've got someone coming back to work when they shouldn't be to get more money. Peter dismissed for short term absence. If he'd just stayed off, wouldn't have been dismissed. Going off and coming back is what's done him really.

JC

Number of days comes into it. Accept there is one occasion when it's been as back to back as that. We've had people in part in that situation. But the biggest issue for us is amount of support, but yes, point made.

IF

Nothing else to add.

JC

Ok, appreciate it's not ideal but want to make sure have all information. Will need 3 weeks, there is one person due to go on holiday imminently. Can we agree potential dates?

IF

Could do Thursday, 24th June.

JC

Ok, 3 pm?

IF

Yes.

JC

Ok, will come back with a decision then.

CLOSED 1.47 PM.

APPEAL HEARING NOTES

DATE: 24th JUNE 2010

TIME: 3.10pm

PRESENT

Employee: Peter Still (PS)

Manager: John Clark (JC)

Employee Rep: Ian Fraser (IF)

Note Taker: Kara Mathieson (KM)

JC Okay, I agreed to come back to you having looked at some things. Ian raised two key things for us to consider 1) discrimination 2) not reviewing other options. You also raised issue of pay, I want to confirm we paid you 5 weeks in lieu of notice.

PS Yes, I phoned Payroll.

JC Okay, so looking at facts, had discussion with Occupational Health Advisor and I believe we have made adjustments for you. So I think we have made adjustments and that's backed up with evidence of what you've worked on in past year.

Also discussed the issue of other options, and Jenny Thompson is of belief that the retail roles do still involve bending and lifting. Nor have there been any of these jobs available locally, certainly in last few months. She wasn't of the opinion a move to shops would help resolve situation.

When I look at level of absence it's over 50% in last few months. I think reason for dismissal was fair, and I don't think we can support that level of absence even having made those adjustments. Now that's a tough decision and I'm sure not what you want to hear. It's quite clear though, having looked at information in depth, that we have made the adjustments necessary.

You do have right of appeal to a 2nd stage, to my boss Jurrien Heynen.

Do you have any questions?

IF No questions from me – Peter?

PS No.

IF This will be confirmed in writing I take it?

JC Yes.

IF Are you still at same address Peter?

PS Yes.

IF Okay, I'll take some time to go through appeal options with Peter.

JC Okay, thanks.

CLOSE 3.20pm



Private & Confidential

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25th June 2010

Dear Peter

I am writing to confirm the outcome of your appeal against dismissal heard on Wednesday 9th June and Thursday 24th June by John Clark, General Manager, and attended by yourself and Ian Fraser, Usdaw Area Organiser.

The decision to dismiss you was upheld, and as such you remain dismissed from the company.

As discussed you do have a right to a second stage appeal, should you wish to pursue this please do so in writing to me at the above address within 7 days of receipt of this letter. You must clearly detail your new grounds for appeal i.e.)

- New evidence needs to be considered
- You were not given a fair hearing at the 1st appeal

Please do not hesitate to contact me if you have any queries about the content of this letter.

Yours Sincerely
For and On Behalf of
Tesco Stores Ltd

Kara Mathieson
Personnel Manager

After my request to a new manager of the hearing on the grounds that new evidence could be considered, this evidence was from a subject access data protection act. of my personnel file while at Tesco Stores Ltd,

1) Under the DDA 95 (the act) I think I was discriminated against by Tesco Stores Ltd being my employer, Shift Manager, John E. Linnest, and Team Manager, Bruce Balbenton, from October 2005 to May 2006 failure to make reasonable adjustments but knowing I had a health problem, after a dismissal in November 2005 was overturned failure to act when request was made by myself and a letter from my Doctor,

2) Bruce Balbenton, from February 2006 onwards's Harassment and victimisation under DDA 95 (the act) with threat's of disciplinary action being taken for performance issues and conduct, and being given duties that made my health worse with number of informal discussions and threats of action being taken against me.

Under DORA I was receiving an unlawful treatment I was receiving in the past and right up until my dismissal on 13th May 2010, a number of managers, shift, Team, and personnel both at old +vington d/c and new Livingston d/c from October 2005 until May 2010 no action was taken to look into what I was claiming, instead of that they continued to discriminate against myself resulting in my dismissal on the 13th May 2010.

4) At the attendance review meeting that eventually put me in front of dismissing officer Shift Manager John Cleughan, at that meeting he stated that I was not covered by DORA and referred me to D.O. what he said was something that he could not possibly know, As only a court of law or tribunal can make that decision if I was covered by DORA 95 (contract)

5) At my dismissal meeting on the 30th April 2010, in front of Guy Henderson and explaining to him what had happened to me in the past, none of this was investigated if it had been he would have noticed that I was likely covered by DORA and the

made on the 13th May 2010, and expert advice should have been taken which didn't happen.

6) The only time the company supported me was to put me on Loading duties, which I was doing ok with and had not been off with my back condition for over a year, and the first time I'm off with my back problem, I'm put in front of the dismissal officer and then dismissed for short-term absences. I explained that, I was forced to return to work as I had a mortgage and was only getting (SSP) and that if I was able to take more time off instead of being forced financially to return, it wouldn't have been as many absences as what I was dismissed for.

7) I've lost my home - my relationship with my partner, who I have two daughters aged three and 13 years and over the past four and a half years, and when eventually found out that what two managers had been doing to me all this time had been wrong, not only legally but the company's policy and procedure so well, and after bringing this to the attention of numerous management, nothing was done. I've got all this information to prove what I'm saying from my Personnel File which I got

2010,

3) I had requested a subject access under data protection act in writing, once in May 2008 and again May 2009 which I was told I couldn't get, I've got the letters from my personnel file, and two times a breach of Data Protection Act, if I had been given what I was requesting I would have been able to bring this unlawful act's a long time ago.

these are the issues I'd like raised and investigated for my second Stage Appeal hearing against dismissal on 13th May 2010.

signed

Peter Gill

July 2010.