

	Complainant	Respondent
Parties	Aine O' Driscoll	Sheenco Travel Limited
Representatives	Colette McCarthy, Wolfe and Co. Solicitors	Gary Gorman

Complaint:

Act	Complaint/Dispute Reference No.	Date of Receipt
Complaint seeking adjudication by the Workplace Relations Commission under Section 8 of the Unfair Dismissals Act, 1977	CA-00065788-001	04/09/2024

Date of Adjudication Hearing: 20/01/2025 Workplace Relations Commission Adjudication Officer: Gaye Cunningham

Procedure:

In accordance with Section 41 of the Workplace Relations Act, 2015 andSection 8 of the Unfair Dismissals Acts, 1977 - 2015,following the referral of the complaint to me by the Director General, I inquired into the complaint and gave the parties an opportunity to be heard by me and to present to me any evidence relevant to the complaint. The matter was heard by way of remote hearing pursuant to the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 and S.I. 359/2020, which designated the WRC as a body empowered to hold remote hearings.

Background: The Complainant contends she was unfairly dismissed without due process.

Summary of Respondent’s Case: The Complainant was employed from 30 March 2022 to 22 July 2024.

Disciplinary action was started in 2023 for failures of duties in her role, leading to customer complaints on numerous occasions. Improvements to the systems and processes were introduced, with in person and online training provided, as well as step-by-step guides to assist all employees, but errors continued. The Respondent provided examples including (but not exclusively):

08/05/2023 Guest bookings

- Restaurant booked in Edinburgh, not Skye - booked in November and only seen now (guest checked informed us after checking this herself) so no availability anywhere

08/05/2023 Guest Hotels

- Transport company (McLaren) not updated 27/04/2023

Guest Hotels

- Transport company (McLaren) 05/05/2023

Guest complaint

- Group member told he would be cc'd on email but was not 09/05/2023

Guest bookings

- Dinner booked an hour away from hotel

10/08/2023

- Verbal warning for not completing pre-arrival checks

11/09/2023

- Written warning

Mon, 11 Sept 2023, 14:58 (Names and details of guests redacted)

Considering your verbal warning in August for incomplete pre-arrival checks, I have no option but to escalate this to a

written warning. You do have a right to appeal this and request someone to join you in a meeting if preferred. This warning will be on record for 12 months, until 11th September 2024. Please let me know if you have any questions or would like to appeal this.

30/05/2024

- Booking errors - Double checking flight info - Flight number and destination in fulfilment, but not actual arrival/departure time.
- Booking errors - Issues with tickets on arrival to Ireland - Wrong type of ticket booked
- Booking errors - Not cross-checking collection times for airport transfer - On final itinerary it stated 9.00am but transfer was booked for 9.30am.

09/07/2024 Booking errors / Process Failure:

- Flight details hadn't been added to Tourwriter or sent to transfer company (3 weeks until travel)
- Dinner reservation not booked - Draft email requesting dinner not sent. 18th July 2024 Guest complaint and bad review:
- Pre-checks - Guest • Call recordings reviewed:

22/07/2024 (Video call and email) Termination of employment

Hi Aine, Thank you for speaking with me today. I am writing to confirm your termination of employment with immediate effect. The reasons for this are as follows:

- *Failure to follow training and perform as required in the position*
- *Repeated issues after previous verbal and written warnings which had jeopardised the company's reputation and performance.*

I wish you the very best in the future and if you need a reference please let me know.

The Respondent submits that considering the economic climate in which we are working through with an aim to preserve all employment within the company, avoidable errors are costly and also damage the company's reputation. All employees were aware of this at the time of this action, and repeated failures in processes were deemed to be gross misconduct, considering the previous disciplinary actions and additional training that were provided.

Under the terms of Sheenco Travel's Employee Handbook, gross misconduct is listed as 'Gross insubordination and / or continuing refusal to carry out legitimate instructions'. Due to a prior incident with an employee being dismissed, who attacked our systems the decision was made that immediate shutdown of access to our systems was necessary. Ms O'Driscoll was not prevented or advised against contacting her colleagues, her work access was merely removed. The General Manager of the Company gave evidence on affirmation. He outlined the history of the problems and performance issues the Company had with the Complainant. He emphasised the training and investment in same by the company. Ultimately the situation was considered gross misconduct as the number of errors and complaints was putting the company at risk.

Summary of Complainant's Case:

It was submitted on behalf of the Complainant that the Respondent 'retrofitted' a gross misconduct reason for the Complainant's dismissal. She was summarily dismissed without due process and no natural justice. She was not afforded the right in a formal setting, to hear the complaints against her and the right to reply. She was not afforded the right to be represented in any procedure and was not afforded the right to appeal the decision to dismiss her. This is in contravention of the Respondent's own procedures as provided in their own Employee Handbook.

The Complainant gave evidence on affirmation. She agreed that she had received verbal and written warnings during

the course of her employment. She was dismissed by call on 27th July 2024. She did not receive notice of the subject of the dismissal call. She was given no right of reply or representation. She was shocked by this and was effectively locked out of the system immediately.

She gave some detailed evidence about training, problems with systems and 'teething problems' encountered. She secured part time employment at the end of September 2024 at a considerable loss of income.

Findings and Conclusions:

There is no doubt from the evidence, the Complainant's performance was not up to standard and she received a verbal warning in August 2023. She received a written warning in September 2023 which was to remain on her file for 12 months. She was dismissed following a video call for which she received no advance notice, no subject for discussion, no right to representation and no right to appeal the decision to dismiss. The Respondent argued gross misconduct on the basis that the business was jeopardized by her underperformance and errors. I note the email of dismissal states: failure to follow training and perform in the position".

Statutory Instrument S.I. 146/2000 provides a code of practice for grievance and disciplinary procedures in employments. The code provides that the basis for disciplinary action should be clear, that the range of penalties that can be imposed should be clear and that an internal appeal mechanism is available. The provisions include that the employee is given the opportunity to respond fully to any allegations or complaints, is given the opportunity to be represented during the procedure and is given the right to appeal.

In this instant case, no due process was afforded to the Complainant. For this reason, I find she was unfairly dismissed. I consider compensation to be the appropriate remedy as re-instatement or re-engagement are not appropriate remedies in the circumstances where the employment relationship is broken. I note the litany of errors outlined by the Respondent and I find that the Complainant made a significant contribution to the situation in which she found herself. I uphold her complaint and award her the sum of €5,000 compensation.

Decision:

Section 41 of the Workplace Relations Act 2015 requires that I make a decision in relation to the complaint in accordance with the relevant redress provisions under Schedule 6 of that Act.

Section 8 of the Unfair Dismissals Acts, 1977 – 2015 requires that I make a decision in relation to the unfair dismissal claim consisting of a grant of redress in accordance with section 7 of the 1977 Act.

For the reasons outlined, I have decided that the Complainant was unfairly dismissed and I award her the sum of €5,000 compensation.

Dated: 11th March 2025 Workplace Relations Commission Adjudication Officer: Gaye Cunningham Key Words:

Unfair dismissal, no due process, S.I. 146/2000.