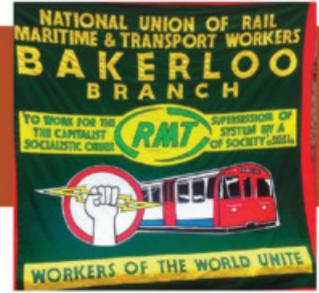




Bakerloo news



May 2018: Strike Special

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Reinstate Luis Vigo - Vote YES to action!

Strike against unfair dismissal

Queen's Park driver Luis Vigo briefly left his train at Queen's Park in order to top up his water bottle on the southbound platform 18 months ago.

For this heinous crime he was suspended from work, subjected to an investigation lasting many months and finally sacked.

NON-SAFETY ERROR

According to LU's own policies, failing to request a PNR and not fully securing your train before leaving the cab (both of which Luis admitted to from the start) are listed as non-safety-related staff errors which should initially be dealt with as performance issues under CMS.

Only after such errors are repeated a number of times should disciplinary action be considered and, even then, only an LDI on the first occasion. So how were local managers and LU able to turn Luis's actions into a gross misconduct case and sack him? And what does this case mean for the rest of us?

FABRICATED CHARGES

The investigating manager was the same manager who Luis had previously raised a Bullying and Harassment claim against, so a fair and unbiased outcome was hardly likely.

This manager clearly realised that the two staff errors did not add up to anything even close to gross misconduct, so he fabricated a further four misdemeanours with

which to accuse Luis, all around alleged failures to co-operate with the investigation and supposed obstructive and unprofessional behaviours towards managers.

The final CDI brief therefore contained six charges, two of which were minor performance issues and four of which were the product of the investigating manager's inventive mind.

SHAM CDI

The CDI hearing took place in May 2017, and was a complete sham.

Despite a mountain of evidence and witness testimonies put forward by Luis and his rep to show that the four additional charges were bogus, and despite showing that the staff errors should not have been dealt with under the disciplinary procedure, the panel decided to uphold five of the six charges and summarily dismiss Luis.

CDI APPEAL: MORE OF THE SAME

Three months later, at an appeal hearing with the Bakerloo Performance Manager (who has since left the company), further evidence was provided.

This included photographs of the area around the water point, to totally destroy the false and frankly ridiculous argument that passengers had been put in mortal danger by Luis's actions.

Unsurprisingly, the Performance Manager completely ignored the

heavy weight of evidence in Luis's favour and upheld the original decision to sack him.

EMPLOYMENT TRIBUNAL WIN

Luis lodged an appeal with an Employment Tribunal (ET), claiming unfair dismissal.

This hearing was held over three days in March 2018. It didn't take long for the four fabricated charges to be quietly dropped.

AN UNFAIR DISMISSAL: HOW THEY DO IT



Local Manager:

- Choose a victim
- Pick on a minor staff error and start a disciplinary investigation into it
- Fabricate a few more charges
- Compile a CDI brief for gross misconduct for the staff error and the baseless allegations

CDI Panel:

- Ignore all evidence offered by the member and his rep
- Ignore the company's own procedure for dealing with performance issues
- Summarily dismiss the member

At the Employment Tribunal:

- Struggle lamely to defend the indefensible
- Squirm under cross-examination from the member's barrister
- Refuse to abide by the judge's view that the member be re-employed



By day three, the two original charges were also dismissed by the judge who said that the level of risk (to passengers) was in fact vanishingly small, to the point of non-existence. In other words, LU's case against Luis was based on nothing. The judge ruled that Luis had been unfairly dismissed.

WHAT'S THIS GOT TO DO WITH YOU?

Luis's is one of a number of recent cases where staff have been dismissed or maliciously treated in spite of the evidence and in contravention of the company's own policies and procedures.

This means that what was done to Luis could also be done to any one of us. Do you really want to work for

a company whose managers think it is okay to stitch you up and sack you for a minor error?

STRIKE BALLOT

Despite winning his ET case, the company is not obliged to reinstate Luis and has so far failed to indicate that they accept the judgement by taking him back in any capacity.

This arrogant stance represents a threat not only to Luis's career prospects but also to our own.

Because of this situation, the Bakerloo branch has taken the decision to request a ballot of all driver members on the line for strike action and action short of a strike to force the company to accept the ET judgement, reinstate Luis, and start to abide by all agreements, policies and the law.

It is important to understand that this issue is not merely about how one person has been treated. This case represents a challenge and a threat to every one of us and we need to show that we will not tolerate such abuses of authority in our workplace.



YOUR BALLOT PAPER WILL BE ARRIVING SOON

VOTE YES FOR STRIKES

VOTE YES FOR ACTION-SHORT-OF-STRIKES

BALLOT PAPER HASN'T ARRIVED? SPEAK TO YOUR REP.

A View From The Tribunal

By Paul Shannon, RMT rep, LU Trains Functional Council

In over 20 years, I've never come across a Tribunal hearing like Mr Vigo's.

After giving their evidence on day two of the hearing, the management team left and never returned to hear the judgement. LU's legal team was left to defend the indefensible on its own. This is unheard of, even when management are on the back foot as they were in this case.

It was clear to the judge that four of the six charges were absurd fabrications, and these were soon dropped. This meant that the case against Mr Vigo was that he left his cab for 30 seconds to get water. Management tried, but failed miserably, to defend their decision

to dismiss Mr Vigo.

On the final day of the hearing, after both legal teams had finished summing up, the ET judge immediately announced that Mr Vigo had been unfairly dismissed. To make a ruling in this way, without first taking an adjournment, is without precedent and shows how dishonest and weak the company's case was.

The judge also recommended that Mr Vigo should be re-employed and said he could see no reason why this would be an issue to a company of LU's size.

He allowed both legal teams time to communicate with each other but, as no managers were present after day two of the hearing, LU's legal team requested more time to discuss further with the company's HR Director.

Your branch meets on the FIRST TUESDAY of every month, 16.00, upstairs at The Royal Exchange, 26 Sale Place, W2 1PU (Edgware Road H&C). All members welcome.

The Regional Council meets on the **LAST THURSDAY** of every month, 16.30, at the 12 Pins, next to Finsbury Park station.

Bakerloo News is a monthly newsletter from the Bakerloo branch of the RMT union. This is a special edition for our train driver members. To submit a story for *Bakerloo News*, or to contact the branch, please email jimmcdaid36@gmail.com, or ring Branch Secretary Jim McDaid on 07917 131692