



RMT - Never on our knees!



SACKED FOR GETTING WATER!

An RMT member on the Bakerloo Line was dismissed for gross misconduct last year after a battle lasting nearly a year. The case was a stitch-up by management from beginning to end, with a non-safety related staff error presented as gross misconduct and numerous other alleged Code of Conduct charges invented in order to beef up a feeble CDI brief.

Unrequested PNR

Luis Vigo, a driver based at Queen's Park, briefly left his train at Queen's Park in order to top up his water bottle at the water point on the platform. He failed to fully secure his train; however, the water point is literally 10 feet from the cab and another train operator was standing there waiting for his own train, so there was no danger to anyone on the train.



Luis Vigo - sacked for a 30-second PNR at Queen's Park!

Incredibly, the manager who investigated this incident decided that this amounted to gross misconduct. Interestingly, this was the same manager who Luis had previously raised a Bullying and Harassment claim against so, arguably, should not have been put in charge of the investigation. The final CDI brief this manager compiled also included a further four charges relating to Luis's alleged failure to cooperate with the investigation and to unprofessional and obstructive behaviour.

Sham CDI

The CDI hearing took place last May, 6 months after the incident, and was a complete sham.

One of the CDI panellists was the TOM from the other Bakerloo depot, Elephant & Castle. It was pointed out to the panel that LU's own policy states that unrequested PNRs and failing to properly shut down a train are both non-safety related staff errors and hence not gross misconduct. The other charges relating to Luis's alleged behaviours were attacked for having little evidential support. In fact, Luis and his rep even provided witness statements from staff who supported Luis's version of a heated argument which took place between him and an aggressive DRM on the night of the incident.

Despite the obvious frailty of the whole case and in the face of strong evidence in Luis's defence, the panel decided to uphold five of the six charges against Luis and summarily dismissed him. The only way to explain this perverse

and completely unjust decision is to accept that it must have been made long before the CDI took place. This travesty represents yet another low point in the recent history of LU management.

CDI Appeal – More of the Same

At the appeal hearing with the Bakerloo Performance Manager (who has since left the company), further evidence was provided, including 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.

Prior to the appeal hearing, Luis's rep asked for a telephone recording and CCTV images which could determine the truth concerning the argument between Luis and the DRM on the night of the incident. These relevant pieces of evidence were 'not available'.

It's a fair bet they would have been 'available' and in the CDI pack had they proved Luis's guilt.

Unsurprisingly, the Performance Manager completely ignored the heavy weight of evidence in Luis's favour and upheld the original decision to sack him.

Throughout the CDI and appeal, Luis openly admitted what he had done on the platform and accepted his errors in not calling Service Control to request a PNR and in failing to fully shut down his train. However, what none of us are prepared to accept is that these amount to gross misconduct or even anything near it.

Employment Tribunal Win

Following LU's sham disciplinary process, Luis filed an unfair dismissal claim with the Employment Tribunal. This was held over three days in March this year and presented an amusing spectacle for those able to get to it. LU decided to offer only two witnesses – the Elephant TOM and the Bakerloo Performance Manager, both of whom failed miserably to defend the indefensible.

On the final day of the ET hearing, the judge declared that he didn't even need to adjourn as he had already reached a decision: Luis had been unfairly dismissed (though he was 15% to blame by not correctly shutting down his train).

During the course of the hearing, it had become clear that the charges relating to Luis's behaviour were unsustainable. This left the first two charges, but these rested on the preposterous claim by management that passengers on the train were at significant risk while Luis was at the water point. The judge, however, ruled that the level of risk was in fact vanishingly small, to the point of non-existence. In other words, LU's case rested on nothing.

What Next?

A Remedy Hearing has been set for 15th May. Luis remains out of work and it is not clear whether LU will reinstate him, even if the judge recommends this outcome. In view of this, and recognising this scandalous abuse of the disciplinary process by LU management, we need to consider an

industrial response to ensure that the company does the only right thing – to reinstate Luis. **If we fail here, the door will be open for further attacks. Who will be next, and for what minor infringement?**

STOP THE ATTACKS

This is not just about what has happened to Luis Vigo. His case is merely the latest in a developing and alarming trend:

- **The London Bridge 3, one of whom was sacked for trying to get a fare evader to pay a fare**
- *Danny Davies, the Central Line driver originally sacked for failing to see a collapsed passenger on the platform on an atrocious CCTV image*
- **a driver sent to CDI for gross misconduct after a station overrun**
- *a driver sacked after passing (yes, you read that right – **passing**) a D&A test*

How much more of this are we going to tolerate? What is the point of all our agreements, policies and procedures if LU managers are simply going to ignore them and sack anyone they take a dislike to?

Action Now!

It's surely time to respond to these attacks on our members by balloting for strike action and action short of a strike to show the company that we are prepared to defend all our agreements and that fairness and justice must form the basis of all our industrial relations, especially in disciplinary matters. Frankly, enough is enough!