

EAT finds that dismissal for making offensive, personal tweets is potentially fair

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The Employment Appeal Tribunal has held that offensive tweets made by an employee on his personal Twitter account and which

did not relate to the employer could be grounds for dismissal for gross misconduct.

Game Retail Ltd is a video game retailer which uses Twitter and other social media for marketing and communication purposes. Mr Laws was employed by Game as a risk and loss prevention investigator with responsibility for over 100 stores nationwide. In 2012, Mr Laws set up a personal Twitter account which he used to follow the accounts of the stores he oversaw. Mr Laws also allowed 65 stores to follow his Twitter feed. Mr Laws' tweets were publicly visible as he had not altered his privacy settings.

In July 2013, another manager raised concerns with Game as to the content of Mr Laws' tweets. A number of tweets contained explicit language and many were alleged to be offensive and abusive. Following an investigation, Mr Laws was summarily dismissed for gross misconduct. Mr Laws brought a claim for unfair dismissal.

The EAT held that Mr Laws' dismissal had been fair given that his tweets could not properly be considered to be private. It was relevant that Mr Laws had failed to restrict his privacy settings and had tweeted in the knowledge that 65 Game stores were following him. His tweets were visible to Game staff and also to customers. Game was entitled to conclude that the tweets may have caused offence; it was not necessary for it to find any evidence that offence had, in fact, been caused. The tweets did not need to relate to Game or to Mr Laws' work or colleagues in order for them to justify his dismissal.

This decision follows numerous news stories relating to the impact of personal social media use on working relationships. It highlights the need for employers to consider their stance on their employees' use of social media outside of work as well as during working hours. It is advisable for employers to make clear in their policies that misuse of even private social media accounts can amount to gross misconduct in some

circumstances.

Game Retail Ltd v Laws UKEAT0188/14

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