

RMT up front



The newsletter for London Underground drivers

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Eamonn Lynch secures crushing victory at employment tribunal

**Re-instate Arwyn and Eamonn
Stop victimisation of union reps**



An injury to one is an injury to all



An employment tribunal has unequivocally found that Eamonn Lynch, RMT Health and Safety Representative for the Bakerloo Line, was dismissed because he was a member of a health and safety committee and because of his trade union activities.

Three times now the legal system - usually biased towards employers - has ruled on the side of Tube workers, giving a massive boost to the union's campaign for reinstatement of both Eamonn and Northern Line driver Arwyn Thomas.

Mayor Boris Johnson has attacked RMT for calling strike action and called for new anti-strike laws. But the Tribunal's decision completely vindicates RMT's position. It also throws into the spotlight LU's concerted campaign to victimise RMT reps on the tube.

RMT vindicated

This decision of an independent employment tribunal has completely vindicated the RMT's position. This judgment also throws into the spotlight LU's concerted campaign to victimise RMT reps on the tube.

The tribunal's decision could not be clearer: ***"The Tribunal concludes that the Claimant was dismissed principally because he was a member of a health and safety committee. This was inextricably bound up with his status as a union organiser in the minds of the Respondent in the circumstances of this case and we find that he was also dismissed because of his activities in an independent trade union. In reality the trade union activities that caused him to be dismissed***

were his health and safety committee responsibilities." (para 117 of the tribunal judgment).

There is no room for any doubt here.

The evidence of London Underground's managers

The tribunal made important observations as to the credibility of the various witnesses from London Underground management which should be of concern to everyone who works for them.

They found the manager who chaired the disciplinary panel, Mrs Alana Stewart, was an unreliable and unsatisfactory witness. On at least 5 occasions the tribunal express serious concerns about Mrs Stewart's evidence. ***"..... it obviously diminishes the credibility of Mrs Stewart as a witness who was adamant that"*** (para 57)

"Mrs Stewart told us she made enquiries about comparable cases but there is no contemporaneous evidence that she did so and she makes no reference to it in her extensive witness statement. We do not accept her evidence on that point on that basis." (para 59)

"Ms Stewart in her oral evidence implied that she did not accept the Claimant's account of events but this is not reflected in her contemporary decision making. This is an example of this witness dissembling and a further reason why the Tribunal considered her to be an unsatisfactory witness." (para 67)

"It is rather unfortunate that this formal document did not reflect the decision of the panel to acquit the Claimant of two of the three charges.

This did not prevent Mrs Stewart signing the document." (para 68)

"Mrs Alana Stewart was an unsatisfactory witness as we have described above." (para 110)

Dissemble is defined in the Collins English Dictionary as: ***"1. to conceal (one's real motives, emotions, etc. 2. to pretend, simulate."***

Why would any manager need to do this if their action was appropriate and above board?

This finding could not be more damning.

In relation to the manager who presided over the appeal, Mr Chris Taggart, the tribunal concluded he was more concerned with covering up for his management colleagues than with investigating Eamonn's case fairly. They state: ***"He was also more concerned with explaining Mr Jones' comments were not relevant than determining whether it had a material effect on the outcome i.e. he was principally interested in exculpation rather than investigation."*** (para 78) and ***"As we have already found, Mr Taggart was too anxious to exculpate his colleagues from blame."*** (para 120)

This raises concerns of the utmost seriousness about London Underground's disciplinary process. What confidence can any member of London Underground's staff have in the fairness of their procedures given these findings by an independent tribunal.

Eamonn Lynch and the RMT's witnesses

By stark contrast, the tribunal found that Eamonn Lynch and the RMT officials who gave evidence on his behalf or represented him were credible and honest. In relation to Eamonn Lynch the tribunal stated, ***"The Tribunal found the Claimant to be a reasonably straightforward witness.....before the Tribunal the Claimant was a truthful witness. The Claimant was also truth-***

continued on page 2 >>>



TRAIN DRIVERS COALITION & SOLIDARITY

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<<< continued from front page

ful with the Respondents in his dealings with them about the August incident.” (para 109)

The tribunal also made the following observations concerning RMT officials, *“This was consistent with the evidence of Mr Munro, which we accept, that the line Standards Manager, Mr Steve Senior, believes that the Claimant’s case should have been dealt with at a local level.” (para 78)*

“A Directors review is a discretionary matter but it was agreed in this case. Doubtless that was assisted by the fact that Mr Crow set out very clearly and succinctly what the grounds were in his letters of the 10th and 15th December 2010.” (para 81)

“The Tribunal accept the point made by Brian Munro that the Respondents made a conceptual error.” (para 120)

All members take note: the Tribunal made clear that Eamonn Lynch and the RMT have been truthful and honest throughout. Please bear this in mind when reading any material produced by management in this dispute.

Failure to follow procedures

The tribunal found London Underground failed to follow their own procedures when deciding to refer his case to a Company Disciplinary Interview. They concluded, *“...both the disciplinary policy and the LUL Discipline Support Pack envisaged the decision as to referral to a CDI be taken by the investigator. It is not apparent that this took place here.” (para 51)*

Sacking - a sanction too harsh

The tribunal say about the decision to dismiss Mr Lynch, *“...as concerns the claim of conventional unfair dismissal, the Tribunal find that no reasonable employer would have decided that dismissing the Claimant was proportion-*

ate.” (para 128)

Support the industrial action

This unanimous decision of the Tribunal demonstrates beyond any doubt that the decision of the RMT to call for industrial action in support of Eamonn Lynch and Arwyn Thomas is wholly reasonable and justifiable. What else could we do?

Any trade union relies heavily on those members who are prepared to take on the duties of representing their members’ interests in addition to their workplace duties. These local officials play a very important role in the union’s efforts to improve your working environment and terms and conditions of employment.

Any member who takes on this role surely should have the support of all fellow trade unionists in the workplace to enable them to carry out their duties without fear of reprisal. This must especially be the case with health and safety representatives in a safety critical industry. Your safety could be compromised if people are increasingly reluctant to come forward to act as health and safety representatives based on what has happened in this case. What would it say about our trade union or trade unions generally if this wholly unfair treatment of Eamonn Lynch and Arwyn Thomas were to go unanswered?

RMT is now seeking an urgent meeting with LU to resolve this situation. London Underground is a major publicly-owned body and it is unthinkable that the company or the Mayor of London could continue this disgraceful sacking in total breach of employment law. If LU still refuses to reinstate our sacked members the strike will be on! Let LU management explain to the media why they are putting London through ‘commuter misery’ because they insist on their right to break the law.

Reinstate Eamonn and Arwyn!

Strike pay

RMT drivers have lost as much as 7 days’ pay in the last year through striking against job cuts, for the reinstatement of Arwyn and Eamonn, and through supporting the ASLEF strike on Boxing Day. The union salutes each and every loyal member for the principled support they have given during these disputes and recognises that this has come at a financial cost. In view of this, the union is considering a one-off payment to all members who support the forthcoming strike action for the reinstatement of Arwyn and Eamonn (if strike action is needed). This should cushion the blow of losing yet more pay. Our Executive member and Regional Organiser are pushing the case for strike pay, and RMT’s Executive will make a definite decision at its next meeting, on 23 May.

Remember that most of us have only lost a few days’ pay - Eamonn and Arwyn have lost their jobs fighting for justice, fighting for us all. An injury to one is an injury to all.

You're covered!

Remember you can sign up to RMT membership and take part in the action right up to the day of the action and be legally covered to take action. You don’t have to have received a ballot paper to do the right thing. LU management recently confirmed at Company Council that if you strike, all you have to do is tell them that you are a member of the union taking official strike action (in this case, RMT), and you will NOT get an attendance item or have any disciplinary action taken against you. This applies even if your membership is temporary.

FOUR DAYS’ ACTION, TWO DAYS’ LOSS OF PAY

To maximize the impact of our action on services whilst minimizing the cost to drivers, our plan of action is to have strikes over four days as follows:

between 21:01 on Monday 16 May and 11:59 on Tuesday 17 May;
between 12:00 on Wednesday 18 May and 11:59 on Thursday 19 May;
between 12:00 on Friday 20 May and 21:00 on Friday 20 May.

Or, to put it more simply: night turns will strike on Monday and Wednesday; earlies (before noon) will be out on Tuesday and Thursday; and lates (from 1200 onwards) will strike on Wednesday and Friday. No driver should lose more than two days’ pay. If you are in any doubt about these instructions, please speak to one of your local reps. Should even this drastic action fail to make the company act responsibly, a further four days of action have been named for June.