EMPLOYMENT TRIBUNALS

Claimant		**Respondent**
Mr Naim Aslam	**v**	**Sainsbury's Supermarkets Ltd**

Heard at: Watford
On: 7,8,9,10 and (deliberation) 11 October 2024

Before: Employment Judge Alliott
Members: Ms B Robinson
Mr J Hutchings

Appearances
For the Claimant: Mr J Neckles (representative)
For the Respondent: Mr A Carter (counsel)

RESERVED JUDGMENT

The judgment of the tribunal is that:

1. The claimant's claim of unfair dismissal is well founded (by a majority: Ms Robinson and Mr Hutchings).

2. The claimant's claim that his employer failed to permit the claimant to be accompanied at a disciplinary appeal hearing by a companion is well founded (unanimous).

REASONS

Introduction

1. The claimant was employed by the respondent from 29 June 2016 until he was summarily dismissed on 10 September 2021.

2. By a claim form presented on 18 February 2022, following a period of early conciliation from 9 December 2021 to 19 January 2022, the claimant brings complaints of unfair dismissal, wrongful dismissal (notice pay) and failure to comply with the right to be accompanied/detriment for exercising or seeking to exercise a right to be accompanied. The respondent defends the claims.

The issues

3. The issues were initially set out by Employment Judge Skehan in a case summary following a case management preliminary hearing heard on 8 November 2022. They are as follows:-

> "1. Time limits
>
> 1.1 Given the date the claim form was presented and the dates of early conciliation, any complaint about something that happened before 10 September 2021 may not have been brought in time.
>
> [Not applicable as it relates to the victimisation complaints which have been withdrawn.]
>
> 1.2 Was the detriment complaint pursuant to section 12 of the Employment Relations Act 1999 made within the applicable time limit.
>
> 2. Unfair dismissal
>
> 2.1. What was the reason or principal reason for dismissal? The respondent says the reason was conduct. The tribunal will need to decide whether the respondent genuinely believed the claimant had committed misconduct.
>
> 2.2. If the reason was misconduct, did the respondent act reasonably in all the circumstances in treating that as a sufficient reason to dismiss the claimant? The tribunal will usually decide, in particular; whether
>
> 2.2.1. There were reasonable grounds for that belief.
>
> 2.2.2. At the time the belief was formed the respondent had carried out a reasonable investigation;
>
> 2.2.3. The respondent otherwise acted in a procedurally fair manner;
>
> 2.2.4. Dismissal was within the range of reasonable responses.
>
> 3. Remedy for unfair dismissal
>
> 3.1. Does the claimant wish to be reinstated to their previous employment?
>
> 3.2. Does the claimant wish to be re-engaged to comparable employment or other suitable employment?
>
> 3.3. Should the tribunal order reinstatement? The tribunal will consider in particular whether reinstatement is practicable and, if the claimant caused or contributed to dismissal, whether it would be just.
>
> 3.4. Should the tribunal order re-engagement? The tribunal will consider in particular whether re-engagement is practicable and, if the claimant caused or contributed to dismissal, whether it would be just.
>
> 3.5. What should the terms of the re-engagement order be?

3.6. If there is a compensatory award, how much should it be? The tribunal will decide:

3.6.1. What financial losses has the dismissal caused the claimant?

3.6.2. Has the claimant taken reasonable steps to replace their lost earnings, for example, by looking for another job?

3.6.3. If not, for what period of loss should the claimant be compensated?

3.6.4. Is there a chance that the claimant would have been fairly dismissed anyway if a fair procedure had been followed, or for some other reason?

3.6.5. If so, should the claimant's compensation be reduced? By how much?

3.6.6. Did the Acas Code of Practice on Disciplinary and Grievance procedures apply?

3.6.7. Did the respondent or the claimant unreasonably fail to comply with it by [claimant to specify any alleged breach within 14 days of the date of this letter]?

3.6.8. If so, is it just and equitable to increase or decrease any award payable to the claimant? By what proportion, up to 25%?

3.6.9. If the claimant was unfairly dismissed, did he cause or contribute to dismissal by blameworthy conduct?

3.6.10. If so, would it be just and equitable to reduce the claimant's compensatory award? By what proportion?

3.6.11. Does the statutory cap apply?

3.7. What basic award is payable to the claimant, if any?

3.8. Would it be just and equitable to reduce the basic award because of any conduct of the claimant before the dismissal? If so, to what extent?

4. Wrongful dismissal/notice pay

4.1. What was the claimant's notice period?

4.2. Was the claimant paid for that notice period?

4.3. If not, did the claimant do something so serious that the respondent was entitled to dismiss without notice?

5. Victimisation (Equality Act 2010 section 27)

[Not applicable as this claim has been withdrawn]

6. Remedy for discrimination or victimisation

   [Not applicable as discrimination and victimisation claims have been withdrawn]

7. Right to be accompanied and detriment under the Employment Relations Act 1999.

8. Did the respondent permit the claimant to have their chosen companion accompany the claimant to relevant meetings in line with their obligations under s.10 of the Employment Relations Act 1999?

9. Was the claimant, contrary to section 12 of the Employment Relations Act 1999, subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that exercised or sought to exercise the right under section 10 of the Employment Relations Act 1999? The respondent says that during relevant meetings, the claimant's companion sought to:

   9.1. Answer questions on behalf of the worker;

   9.2. Use the powers conferred under section 10 (2B) of the Employment Relations Act 1999 in a way that prevented the employee [sic: should be employer] from explaining their case, or any other person from making a contribution to it.

10. The detriments relied on by the claimant are those set out in paragraph 4 of the particulars of complaint attached to the ET1. The claimant must confirm specifically what is complained of and provide full details of that set out in paragraph 4.1(i) and (ii) of the particulars of complaint attached to the ET1."

4. Paragraph 4 of the particulars of complaint attached to the ET1 are as follows:-

   "(i) Failed to conduct a full, proper and objective Grievance Investigation & Appeal and Disciplinary Appeal Investigation;

   (ii) Failed to investigate and take into account the disparity of treatment between the claimant and that afforded to his comparators which brought to the attention of the respondent during his disciplinary process;

   (iii) Failure to take the claimant's mitigating circumstances properly into account which discharge that the charges were of a misconduct as opposed to a gross misconduct nature;

   (iv) Denial of the claimant's statutory rights of accompaniment during his Grievance & Disciplinary/Appeal process;

   (v) Non-payment of Notice Pay;

   (vi) Summary Dismissal."

5. The details provided by the claimant on detirments 4(i) and (ii) are as follows:

(i) Further & better particulars regarding the Grievance Complaint per to s4 (i) claimant's brief particulars of complaint.

Not quoted verbatim here but in essence the complaint is that the grievance hearing on 19 July 2021 was adjourned in order to allow the claimant to present further information and at the reconvened meeting on 27 July 2021 the claimant was unable to advance that new information.

(ii) Further & better particulars regarding the Disciplinary Appeal hearing per to s4(1) claimants brief particulars of complaint.

Again the particulars are not set out verbatim but the essence of the claimant's complaint was that he was denied the companion of his choice, Mr John Neckles, at the second appeal hearing/meeting.

2. Further & better particulars regarding the disciplinary appeal hearing per to section 4 (ii) claimant's brief particulars of complaint.

"That the respondent failed to investigate and take into account the disparity of treatment between the claimant and that afforded to his comparator Eddie Mangam [actually Manyim] which was brought to the attention of the respondent during the claimant's disciplinary process on 10/09/2021 or thereabouts.

In regards to comparator Edie Mangam, he was disciplined for failing to wear his high vis in a situation where he failed to follow the correct off-loading procedures and thus placed his life and the public in danger by not following the respondent's guidelines. The same or very similar incident for which the claimant was disciplined for, but in Mr Mangam case he was not dismissed following a disciplinary earing held on the July 2020 or there abouts. Mr Mangam, was awarded with an action short of dismissal award such as a Final Written Warning whereas the claim[ant] was unreasonably dismissed."

6. The issues were further referenced by Employment Judge Lloyd-Lawrie following a preliminary hearing heard on 22 May 2023. The following is recited in the case management summary:-

"3. Mr Neckles confirmed that the claims that are left relate to the dismissal and manner of it. Mr Neckles has confirmed that in relation to the Unfair Dismissal claim, no issue is taken on reasonable belief, the only issue run is that dismissal was not in the band of reasonable responses. The Claimant relies upon a comparator being treated more favourably in not being dismissed, namely a Mr Eddie Mangam."

The law

Unfair dismissal

7. Section 98 of the Employment Rights Act 1996 provides as follows:-

"98 General.

(1) In determining for the purposes of this Part whether the dismissal of an employee is fair or unfair, it is for the employer to show—

(a) the reason (or, if more than one, the principal reason) for the dismissal, and

(b) that it is either a reason falling within subsection (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.

(2) A reason falls within this subsection if it—

…

(b) relates to the conduct of the employee,

…

(4) Where the employer has fulfilled the requirements of subsection (1), the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer)—

(a) depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and

(b) shall be determined in accordance with equity and the substantial merits of the case."

Band (or range) of reasonable response test.

8. As per the IDS Employment Law Handbook on unfair dismissal:-

At 3.42 "Employers often have at their disposal a range of reasonable responses to matters such as the misconduct or incapability of an employee, which may span summary dismissal down to an informal warning. It is inevitable that different employers will choose different options. In recognition of this fact, and in order to provide a "standard" of reasonableness that tribunals can apply, the "band of reasonable responses" approach was formulated, This requires tribunals to ask: Did the employer's action fall within the band (or range) of reasonable responses open to an employer?

…

The test was applied in Iceland Frozen Foods Ltd v Jones [1983] ICR 17, EAT, where a tribunal had phrased its finding of unfair dismissal as follows: "In our view neither of the applicants faults, either singularly or taken together, came anywhere near being sufficiently serious to make it reasonable to dismiss him applying the provisions of section 98(4).

The EAT held that the tribunal had misdirected itself by substituting its own opinion for the objective test of the band of reasonable responses. Mr Justice Brown-Wilkinson summarised the law concisely and his summary is frequently quoted and applied by tribunals:

We consider that the authorities establish that in law the correct approach for the … tribunal to adopt in answering the question posed by section 98(4) is as follows:

(1) The starting point should always be the words of section 98(4) themselves;

(2) In applying the section a tribunal must consider the reasonableness of the employer's conduct, not simply whether they (the members of the tribunal) consider the dismissal to be fair;

(3) In judging the reasonableness of the employer's conduct a tribunal must not substitute its decision as to what was the right course to adopt for that of the employee;

(4) In many (though not all) cases there is a band of reasonable responses to the employee's conduct in which one employer might reasonably take one view, another quite reasonably take another;

(5) The function of the… tribunal as an industrial jury, is to determine whether in the particular circumstances of each case the decision to dismiss the employee fell within the band of reasonable responses which a reasonable employer might have adopted. If the dismissal falls within the band the dismissal is fair: if the dismissal falls outside the band it is unfair."

9. And at 3.51 reasonableness test applies at time of dismissal:

"The reasonableness test is based on the facts or beliefs known to the employer at the time of the dismissal."

Inconsistent treatment

10. At 3.56:

"Inconsistency of punishment for misconduct may give rise to a finding of unfair dismissal as the Court of Appeal recognised in Post Office v Fennell [1981] IRLR 221, CA.

…

Another leading case in this area – Hadjioannou v Coral Casinos Ltd [1981] IRLR 352, EAT – was decided by the EAT within two months of the Court of Appeal's decision in Fennell. The EAT there also recognised the importance of consistency of treatment but placed more emphasis on the employer's ability to be flexible in such matters. On the facts of that particular case it was found that there had been no evidence of inconsistent treatment. Nevertheless, and without reference to Fennell, the EAT accepted the argument that a complaint of unreasonableness by the employee based on inconsistency of treatment would only be relevant in limited circumstances:

- Where employees had been led by an employer to believe that certain conduct will not lead to dismissal.

- Where evidence of other cases being dealt with more leniently supports a complaint that the reason stated for dismissal by the employer was not the real reason.

- Where decisions made by the employer in truly parallel circumstances indicate that it was not reasonable for the employer to dismiss."

Right to be accompanied

11. Section 10 of the Employment Relations Act 1999 provides as follows:-

> "10 Right to be accompanied
>
> (1) This section applies where a worker –
>
> (a) Is required or invited by his employer to attend a disciplinary or grievance hearing, and
>
> (b) Reasonably requests to be accompanied at the hearing.
>
> (2A) Where this section applies the employer must permit the worker to be accompanied at the hearing by one companion who –
>
> (a) Is chosen by the worker; and
>
> (b) Is within sub section (3)
>
> (2B) The employer must permit the worker's companion to –
>
> (a) Address the hearing in order to do any or all of the following –
>
> (i) Put the worker's case;
>
> (ii) Sum up that case;
>
> (iii) Respond on the worker's behalf to any view expressed at the hearing;
>
> (b) Confer with the worker during the hearing.
>
> (2C) Sub section (2B) does not require the employer to permit the worker's companion to –
>
> (a) Answer questions on behalf of the worker;
>
> (b) Address the hearing if the worker indicates at it that he does not wish his companion to do so; or
>
> (c) Use the powers confirmed by that sub section in a way that prevents the employer from explaining his case or prevents any other person at the hearing from making his contribution to it."

12. Section 11(3):

> "Where a tribunal finds that a complaint under this section is well founded it shall order the employer to pay compensation to the worker of an amount not exceeding two weeks' pay."

13. As per the IDS Employment Law Handbook on unfair dismissal:-

> At 7.41
>
> "Although section 10 ERELA provides that a worker is only entitled to be accompanied if he or she "reasonably requests" it, the reasonableness criterion does not extend to the identity of the companion. So long as the companion meets one of the definitions in section 10(3), the employer must agree to that companion. This is stated in the Acas Code, which was revised with effect from 11 March 2015 to reflect the EAT's decision in Toal and another v GB Oils Ltd [2013] IRLR 696. EAT.
>
> …
>
> At 7.42
>
> It is easy to imagine difficulties that could arise for employers being unable to veto the worker's choice of companion. In Roberts v GB Oils Ltd [2014] ICR 462, EAT, the EAT expressed its concern about the potential affect of the Toal decision, where, for example, the chosen companion had a history of disruptive behaviour. This was the case in Gnahoua v Abellio London Ltd ET case number 2303661/2015, where G informed AL Ltd that he would be represented by either JN or FN at his appeal hearing – brothers who were leading figures within the PTSC union. AL Ltd responded to say that it was happy for G to be accompanied by a member of the PTSC union, but not by JN or FN, who had been banned from taking part in such hearings for threatening behaviour towards members of staff (in respect of which FN had been dismissed) and dishonesty, in that the brothers had falsified the date on a witness statement during FN's unsuccessful unfair dismissal claim. G ultimately attended the appeal hearing without anyone to accompany him. He was dismissed, and brought tribunal proceedings, claiming that he had been denied his right to be accompanied. The tribunal noted that Toal clearly establishes the principle that there is an unfettered right for the employee to choose a companion. However, it considered that G had suffered no loss or detriment, and so awarded only a nominal sum of £2 in compensation."

14. The JN referred to in that extract is Mr John Neckles who, coincidentally, has appeared before us and was the companion chosen by the claimant.

15. John Neckles provided to us an employment tribunal decision of Employment Judge Sage dated 5 January 2021, case number 2301532/2018V Martinez v Abbellio London Ltd. This recites at paragraph 27:-

> "The statute is quite clear that this is a right of the worker and the statute states that the employer must permit them to be accompanied. The reference to a reasonable request is to the nature of the request as confirmed in the above cases not to the identity of the person to accompany the worker. If the respondent were to be the final arbiter on an appropriate representative, it would undermine the independence of representation within the workplace and would potentially leave employees and workers vulnerable to unscrupulous employers."

16. In our judgment we are bound by the Toal decision. Further, we would agree with the reasoning of Employment Judge Sage and add our own observations as follows:

16.1 A great deal of the hearing before us has concerned the alleged conduct of John Neckles during the first disciplinary appeal heard on 5 November in front of Mr Rob Decesare. In essence, Rob Decesare gave evidence that he felt intimidated and bullied by Mr Neckles' interruptions and questions whereas the claimant and Mr Neckles' position was that his conduct was entirely appropriate in representing his client. We observe that, with an absolute right of an employee to be accompanied by a companion of their choice, such a right would obviate the need for a trial within a trial to determine whether or not the employer was justified in seeking to exclude a named companion.

16.2 It seems to us that, in the event of a companion or representative being perceived to have been disruptive during a hearing, the correct course for an employer would be to adjourn in order to establish ground rules for the conduct of any resumed disciplinary appeal hearing.

Detriment

17. Section 12 of the Employment Relations Act 1999 provides as follows:-

> "12 Detriment and dismissal.
>
> (1) A worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that he—
>
> (a) exercised or sought to exercise the right under section 10(2A), (2B) or (4), or
>
> …
>
> (2) Section 48 of the Employment Rights Act 1996 shall apply in relation to contraventions of subsection (1) above as it applies in relation to contraventions of certain sections of that Act."

The evidence

18. We were provided with a primary hearing bundle of 489 pages. The claimant provided a supplementary bundle on the first day of the hearing running from pages 490 to 629.

19. During the course of the hearing further documents were produced as follows:

19.1 Page 243A – The invitation to the second disciplinary appeal hearing on 19 November 2021.

19.2 Clips A and B running to 37 pages dealing with the disciplinary process of Mr Edourd Manyim.

19.3 Three fit notes concerning Mr Mark Davies.

19.4 A further loose-leaf bundle of 56 pages of documents from the claimant.

19.5 A key documents document, cast list and chronology from the respondent.

20. We had written statements and heard evidence from:

20.1 Mr Glen Sharp, Area Manager for the respondent's Central Zone, who dealt with the claimant's grievance.

20.2 Mr Rob Decesare, Store Manager, who heard the claimant's first disciplinary appeal.

20.3 Mr James Connolly, Store Manager, who heard the claimant's second disciplinary appeal.

20.4 The claimant.

21. We also had a witness statement from Mark Davies, Store Manager, Disciplinary Hearing Manager and the person who decided to dismiss the claimant.

22. We were provided with skeleton arguments from both John Neckles and Mr Carter for which we are grateful.

<u>The witness statement of Mark Davies</u>

23. This case began at 10am on Monday 7 October 2024. Due to the claimant's representative being unable to attend on that day, Day 1 was treated as a reading day by ourselves.

24. At the start of the hearing on Tuesday 8 October 2024, Mr Carter informed us that Mark Davies would not be attending to give evidence. This was said to be on the grounds that Mark Davies was on long-term sickness absence and unable to give evidence due to stress. Three fit notes were provided to us which confirmed that, following an examination on 5 September 2024, the claimant was signed off to refrain from work due to work stress. The last fit note covered the period to 16 October 2024.

25. Notwithstanding that Mark Davies had been signed unfit for work on 5 September 2024, the respondent had neither made an application to postpone this hearing nor had informed the claimant.

26. Mr Carter, on behalf of the respondent, applied to adduce the evidence of Mark Davies as hearsay. We adjourned the issue overnight to allow the respondent to obtain medical evidence confirming that Mark Davies was medically unable to attend, either in person or by CVP, and give evidence.

27. On Wednesday 9 October 2024, the position had not changed and the respondent did not have any medical evidence.

28. Mr Neckles, on behalf of the claimant, opposed the applications to admit the witness statement of Mark Davies.

29. We have an overall discretion as to what evidence we admit before us subject to the interest of justice and fairness. It concerned us that the tribunal and the claimant were informed of Mark Davies' inability to give evidence so late. We accept that the claimant had every expectation of being able to cross examine Mark Davies and has been deprived of that opportunity. Nevertheless, we decided to admit the statement. That will be subject to the proviso that it will be a matter for us what, if any, weight we place on that evidence.

The facts

30. Although the claimant states in his claim form that he was employed on 29 September 2016, the respondent has pleaded in its response and put in its chronology, that the claimant began employment with the respondent on 29 June 2016 as a Customer Trading Manager. Given that he was summarily dismissed on 10 September 2021, that would give him five years continuous service. Notwithstanding that the claimant has claimed four weeks' notice, we find that the claimant was entitled to the statutory minimum notice period of five weeks. We have not been provided with a copy of the claimant's contract of employment.

31. As might be expected, the respondent had a Disciplinary & Appeals Policy. This provides as follows:-

> "Gross misconduct.
>
> There are certain conduct issues that are considered so serious they may result in dismissal without notice, even for a first offence. These instances are termed "gross misconduct". Some examples of gross misconduct are:
>
> …
>
> - Failure to follow company health and safety procedures, including damaging equipment."

And

> "Appeals
>
> …
>
> An appeal meeting will be heard by someone with at least the same seniority as the manager who held the disciplinary meeting who has not previously been involved in the case.
>
> …
>
> You are entitled to have a representative with you at the meeting."

And

> "Roles and responsibilities for any meeting in the process
>
> The colleague
>
> It is your responsibility to attend any meetings and in your interest to do so in order to provide the manager with the facts. You should make every effort to attend, but if you can't attend then we will consider how the hearing can go ahead as soon as reasonably possible. The options may include the opportunity for a written statement, be represented by an employee representative, or an offer to hold the hearing by telephone, video call or at a neutral venue. If you don't attend without notifying us, or without good reason, or are persistently unable to do so, we may hold the hearing in your absence and reach a decision based on the evidence available."

And

> "Your representative
>
> A representative can attend to support you in any meetings."

32. It was conceded by the respondent that John Neckles falls within the definition covered by section 10(3) of the Employment Relations Act 1999.

33. We heard some evidence concerning the layout of the Enfield Lancaster Road Store. It is a convenience store fronting onto the public highway. We were told that there was an arch to one side through which delivery lorries could drive round to a yard at the back. Delivery lorries would have to reverse back towards the rear door of the store. The delivery lorries would have a tailgate which would allow cages of produce to be placed on them following which the tailgate would lower to the ground allowing the cages to be rolled off and into the store.

34. The Enfield Lancaster Road Store Manager was Mr Samir Khan. The claimant reported to Samir Khan. There were various trading assistants or colleagues who reported to the claimant.

35. The claimant's duties included receiving tail lift deliveries. The claimant had been trained in the procedure to be adopted and has always acknowledged that he was trained and knew the procedure to be adopted. The claimant was required to wear a high vis vest when in the yard. There was a designated safe area which was hatched on the ground. When the delivery lorry was moving and when the tailgate was moving, the claimant was required to be within the safe area. Similarly, colleagues should not be in the yard without a high vis vest on and outside the safe area whilst a lorry was moving. We were not provided with the specifics of the training the claimant had received or a job description. We had no specific evidence as to the extent of the claimant's responsibilities when receiving tail lift deliveries but it appears that he was expected, as a manager, to ensure compliance with the safe working practice and ensure that colleagues did not place themselves in a place of danger.

36. On 8 June 2021, the claimant made a complaint to Glen Sharp regarding his line manager, Samir Khan.

37. In his subsequent grievance, the claimant states that, on 9 June, Glen Sharp called him to discuss his email and said that he would have a word with Samir Khan and the claimant when he returned to work. Glen Sharp told us that he dealt with the grievance informally.

38. The claimant's grievance started that, on 15 June he had an unscheduled meeting with his line manager, Samir Khan, who he states was not happy about him going to Glen Sharp about his complaints.

39. On 16 June 2021, Ms Nilay Mutluata, attended at the Enfield store. Nilay Mutluata was the Risk Lead for Audit Compliance. Her role included conducting risk checks across the area to ensure safety and legal compliance with requirements. We find that Nilay Mutluata attended at the store in order to have a meeting with a Metropolitan Police representative. We find that the police officer was delayed and in the circumstances, Nilay Mutluata took the opportunity of reviewing the CCTV footage of the yard. Quite how it is that Nilay Mutluata homed in on reviewing CCTV footage for 27 May we have not been told. Documents placed before us suggest that Nilay Mutluata was carrying out a random check. Be that as it may, Nilay Mutluata identified that, on 27 May 2021, the claimant had been in the rear yard during a tail lift delivery without his high vis vest on and outside the safe zone whilst the lorry was reversing and the tail lift was moving. Further, the CCTV identified that a colleague had come out into the yard behind the reversing lorry.

40. The documents disclosed in relation to the disciplinary proceedings against Edourd Manyim show that Nilay Mutluata had conducted his investigation meeting on 22 June 2021 and it involved CCTV footage. We have no evidence as to when Nilay Mutluata may have reviewed the CCTV footage in relation to Edourd Manyim and discovered that he had been involved in a tail lift delivery and had not been wearing his high vis vest.

41. The claimant was invited to an investigation meeting with Nilay Mutluata on 22 June 2021. We find nothing objectionable in Nilay Mutluata conducting the investigation meeting in circumstances where she had identified the alleged misconduct.

42. We have the notes of the investigation meeting held on 22 June 2021. The claimant readily accepted that he had completed the relevant training and knew the process for what was supposed to happen. He was shown the CCTV footage. The following exchanges are recorded:-

> "Nilay Mutluata: What should you do first when you know the delivery has arrived once the lorry is outside?
>
> The claimant: Check the seal, make sure no one is coming in from the back."

43. When shown the CCTV:

"Nilay Mutluata: What can you see?

The claimant: I'm not wearing a high vis.

NM: Wha's happening here?

NA: The lorry is reversing & the colleague is outside behind the lorry out of the back door.

NM: From a health and safety point of view, he can see you even though you are not wearing a high vis, he can see you in the side mirror, but he can't see the colleague whilst he's reversing, what would have happened if he had accidentally hit his foot on the accelerator?"

44. And when viewing a separate section of the CCTV footage:

"NM: Where's the tail lift?

Claimant: Moving.

NM: So tail lift is moving do you understand, what could happen if that roll cage fell accident do happen if the tail was on the ground you can go out not before.

Claimant: It would fall on me."

45. At the conclusion of the meeting the claimant was suspended on full pay.

46. We have the decision making summary form completed by Nilay Mutluata. This records as follows:-

"**Summary of allegation/reason for meeting:**

Investigation meeting – serious breach of health & safety namely – failure to follow correct SWP when receiving tail lift delivery on 27/05/21.

Facts gathered prior to the meeting.

CCTV was viewed. I observed Niam [sic] Aslam opening the backdoor to acknowledge depot driver. He then left his safety zone while vehicle was reversing and he was not wearing a correct PPE no high vis.

Findings established during meeting:

Niam failed a serious breach of health & safety he not only put himself in danger he put a colleague's life in danger.

While watching the CCTV I observed Niam out in the car park away from the safety zone where he should have been standing if the vehicle is reversing, he was guiding a reversing lorry not wearing his visible protective clothing (PPE) he was standing to the left of the lorry guiding him reversing onto the backdoor when a colleague came out and collected the newspapers behind a reversing lorry. She was visible to Niam but not the lorry driver.

> While watching CCTV I also observed Niam Aslam walking out with empty roll cages behind the lorry when the tail lift was up and again when the rollers were on the tail lift he continued to walk behind and under a moving tail lift failing safety procedures again."

The outcome was recorded as suspension with progression to disciplinary meeting.

47. We doubt whether the claimant would have been walking under a moving tail lift as this does not appear to have been physically possible.

48. The decision and reasons were as follows:-

> "There are safe areas colleagues must stand in while vehicles are manoeuvring or when tail lift is in operation. These areas are designed to be safe distance away for the vehicle so colleagues don't come to any harm either from moving vehicle or from items that may fall off the tail lift.
>
> It is important any colleagues assisting with delivery ARE wearing correct PPE for the job when moving heavy loads at height the consequences of not following the Safe Working Practices could lead to serious injury and possible fatalities. Therefore my decision is to forward this to a disciplinary hearing as all these processes were broken. Niam failed not only his own safety but colleagues safety."

49. On 25 June 2021, the claimant was sent a letter confirming his suspension and stating that it was:-

> "Pending an investigation into the allegation of alleged gross misconduct health and safety, other; namely serious breach of health and safety, namely, failing to follow the correct SWP when receiving a tail lift delivery."

50. In the meantime, it is clear that Nilay Mutluata had identified on CCTV the fact that Edourd Manyim had also failed to follow correct SWP when receiving a tail lift delivery. We only received a certain amount of the documents relating to Edourd Manyim during the course of this hearing. The letter inviting him to an investigation meeting from Nilay Mutluata references an allegation of "misconduct health and safety – other failure to follow correct SWP when receiving tail lift deliveries". The meeting was to be held on 28 June 2021.

51. We have the notes of the meeting with Edourd Manyim. Edourd Manyim was a Trading Assistant although it is clear that he had been a manager (CTM) in the past. Edourd Manyim confirmed he was happy with his training and knew what he was supposed to do with a tail lift delivery. In the interview notes he is recorded as not being meant to receive delivery and that it was towards the end of his shift that he went out on to the road to help. He acknowledged that he was not wearing his high vis vest. He said it was a natural instinct to go and help and he did not think about it.

52. On 5 July 2021, Edourd Manyim was told by Nilay Mutluata that he would be forwarded to a disciplinary hearing for gross misconduct and this was confirmed in a letter dated 6 July 2021.

53. A disciplinary meeting with Edourd Manyim was actually conducted on 13 July 2021 and was heard by Samir Khan, Store Manager. Again, Edourd Manyim acknowledged that he had training and knew what the process was.

54. We have the decision making summary following that meeting. This states as follows:

> **"Summary of allegation/reason for meeting:**
>
> Failure to follow correct SWP when receiving tail lift delivery
>
> Failure to wear PPE when waiting in the safety zone.
>
> **Findings established during meeting:**
>
> Fully understood training around receiving tail lift delivery.
>
> Did not wear high vis.
>
> Went in to the road pulled roll cage into the store without high vis.
>
> It was coming towards the end of his shift and wanted support fellow colleagues as delivery was late.
>
> He lapsed, never had the intention, to put himself in danger.
>
> Understood what could have happened if it went wrong ie: fatal, serious injury.
>
> **Decision and reasons:**
>
> Written warning – training up to date.
>
> Competent colleague.
>
> Made error, didn't have the intention.
>
> Wanted to help as delivery was late, confirm he will learn and won't happen again.
>
> He has confirmed that he did pull in a roll cage from the middle of the road, into the store without wearing high vis."

55. On 19 July 2021, Edourd Manyim was sent an outcome letter confirming that he was given a written warning.

56. On 26 June, the claimant put in the grievance as already recited. Due to the claimant putting in a grievance, so his disciplinary proceedings were suspended pending the determination of the grievance.

57. Glen Sharp was appointed to deal with the claimant's grievance under the respondent's Fair Treatment Policy.

58. Glen Sharp held a Fair Treatment meeting with the claimant on 19 July 2021. The meeting was adjourned so that Glen Sharp could make further

enquiries. It is clear that Glen Sharp did so as we have interview notes with Nilay Mutluata and Samir Khan.

59. The claimant seeks to advance a case that he was under the impression that the adjournment was to allow him to provide further information. The claimant does not deal with this in his witness statement. What he does states is that:-

> "Following the conclusion of my grievance meeting held on 19 July 2021, grievance officer Glen Sharp notified me that he was going to conduct an investigation into my complaint and get back to me thereafter."

60. On 21 July 2021, Glen Sharp sent a letter to the claimant inviting him to an outcome meeting. The outcome meeting took place on 27 July 2021. The notes to the hearing record the claimant being told he had the right to have a representative present and the claimant confirmed he was happy to proceed without one. The claimant confirmed this in his oral evidence. The claimant was asked if he had any further questions before Glen Sharp began and he stated "No". We find that the claimant was not deprived of an opportunity to advance further information. We find that there was no breach of the claimant's right to be accompanied or for the companion to put the worker's case. Accordingly, we find no breach of section 10 of the Employment Relations Act 1999. Further, we find that there was no detriment on the grounds that the claimant was exercising or seeking to exercise his rights under section 10(2A) and (2B). The claimant's grievance was rejected.

61. In due course, the claimant appealed the grievance outcome. He attended a grievance appeal meeting on 16 August 2021 and John Neckles was in attendance. By a letter dated 24 August 2021 the claimant's grievance appeal was not upheld. On the basis that the claimant's further and better particulars concerning his complaints of the grievance complaint are restricted to July 2021, so we need not deal with the grievance appeal any further.

62. On 27 August 2021, the claimant was sent a letter inviting him to a disciplinary meeting for gross misconduct. This states:-

> "Re: Invite to disciplinary meeting for gross misconduct
>
> The purpose of this meeting is to consider the following allegation(s):
>
> Health and safety – other. Namely failing to follow the correct SWP when receiving a tail lift delivery."

63. We note that the charge is in fairly general terms and in the same wording as Edourd Manyim.

64. The claimant's disciplinary hearing was heard on 10 September 2021 by Mark Davies. John Neckles was in attendance.

65. A noteworthy feature of this case is that, during the course of this hearing, John Neckles revealed to the respondent's representative that he had covertly recorded all of the various meetings. This included the disciplinary hearing on 10 September 2021 and the first disciplinary appeal hearing on 5 November 2021. The claimant denied knowledge of this and John Neckles told us that the recordings were in the "Cloud" and that he had forgotten his password.

66. By virtue of the further and better particulars of the claimant's claim, provided on 11 June 2023, it has been the claimant's case that he brought to the attention of the respondent the disparity of treatment compared with Eddie Mangam (Edourd Manyim) at the disciplinary hearing on 10 September 2021. Notwithstanding that that issue is expressly raised, the witness statement of Mark Davies does not deal with it directly. All that Mark Davies says in his witness statement is that:-

> "I had no involvement in this case as this was dealt with by a different manager and I was not aware of it at the time."

67. We do have the contemporaneous handwritten notes of the meeting. No mention is made in the notes of the claimant or John Neckles raising an issue of disparity of treatment compared to a colleague. We have placed no reliance on the statement of Mark Davies on this issue. However, we are confident that, had disparity of treatment been a live issue at the disciplinary hearing on 10 September 2021, John Neckles would have made a great deal of the issue and it is inconceivable, in our judgment, that it would not have been recorded in the notes. Accordingly, we find that the issue of the treatment of Mr Mangam/Manyim was not raised at the disciplinary hearing.

68. At the conclusion of the disciplinary hearing, Mark Davies concluded that the claimant had committed gross misconduct and should be summarily dismissed. The decision making summary records as follows:-

> "**Summary of allegation/reason for meeting:**
>
> Allegations of gross misconduct for a serious breach of health and safety, namely failing to follow the correct SWP when receiving a tail lift delivery at Lancaster Road Store on 27 May 20021.
>
> **Findings established during meeting:**
>
> - Naim is not denying that he has not followed the correct SWP when receiving tail lift delivery on 27 May 2021. He is fully trained in the correct process that he should follow and can fully articulate what process he should have followed on the day in question.
>
> - He claims that he did not allow the other store colleague to enter the yard whilst the lorry was reversing, however as per the CCTV coverage he acknowledges that they should not have been in the yard whilst the delivery lorry was reversing and that he was in charge of receiving the vehicle at that time.

- He fully understands the consequence of his actions and what could have happened as a result of him not following the correct SWP process for receiving tail lift deliveries.

- In mitigation of his actions on the day in question Naim has told me today that he was feeling unwell on the day in question and was feeling dizzy and that this clouded his judgment on the day. However he failed to mention this in the investigation with Nilay and also did not mention the fact that he was feeling unwell to his store manager (Samir Khan) or other managers on the day. The reason he has given for failing to mention this previously is that on the day of the investigation he could not recall what had happened that day as it had been a month since the incident and it is only now that he has remembered that he was unwell on the day in question.

- Both Naim and his representative have raised on numerous occasions the fact that they feel there was a vendetta to find something on Naim due to a fair treatment that he had taken out on his store manager (Samir Khan), however as per the investigation notes and after personally speaking to Nilay she has confirmed that she at no point was asked by anyone to specifically review CCTV of Naim receiving tail lift deliveries and she was randomly reviewing CCTV as part of her region risk lead role when she discovered the footage of Naim not following the correct SWP for tail lift deliveries. I also understand that this has been answered as part of the fair treatment process that is separate to this disciplinary process.

Outcome options

Summary dismissal – Naim is fully trained as a manager on the tail lift delivery process and the correct SWP that he should follow. He has been able to fully articulate the procedures that he should follow as outlined in his training and he understands the potential consequences of his actions. Although he is stating that he was feeling unwell on the day on question this does not excuse his actions and the potential grave consequences of his actions and for this reason I feel that summary dismissal is appropriate on this occasion.

Decision and reasons

I believe this breach of health and safety, namely not following the correct SWP for receiving tail lift deliveries, is serious enough to warrant summary dismissal as the potential consequences of his actions could have resulted in serious injury or death to either himself or his fellow colleague.

I have taken into consideration that he has no previous record/warnings for conduct for any similar breaches of health and safety and his length of service, however I have concluded that due to the fact that he has been fully trained as a manager and understands his role in protecting himself and his fellow colleagues from serious harm by following the correct SWP as outlined in his training that this breach is severe enough to warrant summary dismissal. I do not feel that any retraining is required as he is able to fully articulate the process that he should follow and that he has chosen to not follow his training on the day in question and has therefore by his actions put both himself and his fellow colleague at risk. He had ample opportunity to correct his actions whilst receiving the tail lift delivery but continued to not wear his high vis or stay within the safe zone whilst the vehicle/tail lift was moving.

> Naim has also stated that he was feeling unwell on the day in question, he has only raised this today and has previously never mentioned this fact and has also not mentioned it to any other manager to verify that this was the case. However I do not feel that this detracts from the serious breach of health and safety that he has displayed on the day in question."

69. We find that the reason for dismissal was misconduct. We find that Mark Davies had a reasonable belief in the fact that the claimant had committed the misconduct. This is based both on our assessment of the evidence and also the concession made by John Neckles. During the course of his closing submissions John Neckles endeavoured to withdraw the concession made, in particular in relation to the adequacy of the investigation and the grounds upon which that reasonable belief was based. We do not consider that it is open to John Neckles to withdraw the concession. Nevertheless, we went on to consider those issues. We find that the investigation was reasonable in all the circumstances. It is a fact that the lorry driver and the colleague were not interviewed. However, given that the claimant's conduct was caught on CCTV and that he had admitted the misconduct in interview, we find that the investigation was, in all the circumstances, reasonable. Further, we find that the belief of Mark Davies was based on reasonable grounds given that it was based on CCTV coverage and admissions.

70. We go on to consider whether the decision to dismiss was within the range of reasonable responses of a reasonable employer.

Majority decision (Ms Robinson and Mr Hutchings)

71. The majority decision of the tribunal is that the decision to dismiss was outside the range of reasonable responses of a reasonable employer. The reasons for this decision are as follows:

    71.1 We accept that health and safety in the workplace is a very important issue. Nevertheless, there are degrees of breaches of health and safety, not all of which will constitute gross misconduct.

    71.2 The responsibility for the colleague has been overplayed. In our judgment, the claimant had no control as to whether a colleague came out into the yard. The claimant's evidence was that he asked the colleague what she was doing and was told she was coming to collect some newspapers. As such, we consider that it is overstating the issue to say that the claimant allowed or was responsible for a colleague being in the yard.

    71.3 When considering the gravity of what the claimant did, we accept that he failed to put on his high vis vest but it appears to have been acknowledged that at all times he was visible to the driver of the lorry in the wing mirrors.

    71.4 We have found that the claimant could not have been walking under the tail lift with a roll cage.

71.5 We find it significant that the claimant's store manager, Samir Khan, when dealing with Edourd Manyim for a broadly similar offence, determined that it only warranted a written warning. That falls well short of summary dismissal for gross misconduct.

71.6 We note that the claimant was suspended and Edourd Manyim was not.

71.7 Although the witness statement of Mark Davies seeks to justify his decision, we place no reliance upon that witness statement as the claimant has been unable to cross examine him on this central and important issue of the case.

71.8 We do not consider that the claimant's previous disciplinary record and length of service was taken into account sufficiently.

71.9 The claimant always accepted wrongdoing.

71.10 There is no evidence that the claimant had made similar errors and that it was anything other than a one-off.

71.11 We reject the contention that the lack of any formal apology or acceptance that the conduct would not be repeated in the future by the claimant are matters that should be held against him. The claimant fully accepted his responsibility and did not deny that he had committed the misconduct alleged.

72. Taking all the above into consideration it is the majority decision that the decision to dismiss was not within the reasonable band of reasonable responses of a reasonable employer.

<u>Minority judgment (Employment Judge Alliott)</u>

73. The minority judgment is that the decision to dismiss, whilst harsh, was within the band of reasonable responses of a reasonable employer. The reasons for this decision are as follows:-

75.1 Health and safety in the workplace is a matter of great importance. I accept that there may be degrees of seriousness of breaches of health and safety.

75.2 Nevertheless, looking at the circumstances of the claimant's misconduct, I find that the potential risks posed by the claimant's conduct were significant. A lorry was reversing in a relatively restricted space in circumstances where the claimant was not in the designated safety area. That must have put himself at risk. Further, manoeuvring roll cages whilst the tail lift was moving again must have put the claimant at risk.

75.3 I accept that the issue concerning the colleague is not so clear cut. I accept that the claimant did not have control over the colleague coming into the yard. However, I consider that the claimant's actions

in merely asking the colleague what she was doing was not sufficiently robust in order to remove her from the danger zone.

75.4 I find that a significant issue is that the claimant had a managerial role. As such, he was expected to be proactive in the enforcement of health and safety policy and set an example to others. In that respect, he stands apart, in my judgment, from Edourd Manyim.

75.5 In other respects, the circumstances concerning the misconduct of the claimant and Edourd Manyim differ. Edourd Manyim was not tasked with taking the delivery, was only helping out and went out into the road to pull a roll cage into the shop. The nature of the operation undertaken by the claimant was different in that he was overseeing the delivery and there appears to have been two distinct breaches, namely the reversing of the lorry and then the manoeuvring of roll cages in its vicinity when the tail lift was moving.

75.6 In my judgment, notwithstanding the claimant's length of service and pervious good conduct, it was not outside the range of reasonable response of a reasonable employer to constitute the claimant's offence as gross misconduct and worthy of summary dismissal.

75.7 In coming to this conclusion I have placed little reliance on the evidence of Mark Davies as it has not been tested by cross examination. However, I consider that there is sufficient information as to the grounds of the decision based on the investigation and the outcome letter.

End of minority judgment

76 On 19 September 2021, the claimant was sent an outcome of disciplinary meeting for conduct – summary dismissal letter. This confirmed that the claimant's employment was terminated with effect on 10 September 2021 on the grounds of gross misconduct.

77 On 22 September 2021, the claimant lodged a notice of appeal. This stated:-

> "1. Grounds
>
> - Disputed evidence.
> - Award issued in breach of procedure/contract, principles of natural justice & the established Burchell test;
> - Bias
> - Award too high
> - Disparity of treatment.
> - Award issued in breach of sections 13, 26 & 27 Equality Act 2010."

78 The claimant was invited to a disciplinary appeal meeting to be held before Rob Decesare on 5 November 2021. John Neckles was in attendance.

79 The conduct of John Neckles at the disciplinary appeal hearing on 5 November 2021 has been hotly contested by both sides. Rob Decesare gave evidence that John Neckles in effect tried to take over the hearing, asked all the questions himself, was rude and denigrating towards Rob Decesare saying he was not up to the job and did not know what he was doing. Rob Decesare said that he felt intimidated by the aggressive behaviour of John Neckles, On the other hand, the claimant disputed that John Neckles' conduct could be deemed inappropriate.

80 It is clear to us that the hearing on 5 November 2021 was a difficult one. We have the notes of the hearing. The hearing began at 14.10 and is recorded as ending at 16.01. The notes record Rob Decesare opening by referring to part 1 of the notice pf appeal, namely disputed evidence. However, the notes record John Neckles as seeking to raise a number of preliminary issues. John Neckles wanted to confirm what type of appeal the meeting was, namely whether it was a review or a rehearing. Rob Decesare adjourned the meeting in order to take advice from Employment Relations, ER, but, unfortunately, he could not make contact. The notes record John Neckles saying to Rob Decesare that he did not know what he was doing. At a further point John Neckles was raising the issue of the role of the investigating officer and, in effect, challenging Rob Decesare's understanding of the process. In his cross examination, John Neckles, on a number of occasions, suggested that the appeal process was the employee's and that he was perfectly justified in asking his questions in the way he did. Whilst the length of the hearing appears long, it is a fact that there were three adjournments during the course of it, one of which was 49 minutes long. On each occasion Rob Decesare was trying to get advice and assistance from ER but none was forthcoming, At one point, when the claimant spoke, the notes record John Neckles as saying "Sssh" to him.

81 It is clear to us that the tone of this meeting was fractious. We are surprised that, if John Neckles had a covert recording of this hearing, he has not produced it. We find his explanation that he has forgotten his password as unconvincing. The meeting was adjourned so that Rob Decesare could speak to ER. However, Rob Decesare's evidence was that John Neckles stated that he believed a different manager would need to be appointed and repeatedly referred to going to an employment tribunal.

82 In so far as we have to make findings on this issue, we find that John Neckles' conduct was combative and confrontational. Whilst Rob Decesare may have felt uncomfortable, on the other hand, John Neckles was doing his best, in his own way, to try and preserve his member's job, albeit robustly. The nature of the dispute between the parties reinforces to us the policy sense in an employee having an absolute right to be accompanied by a companion of their choice with no veto being exercised by the employer. This would remove these sort of disputes.

83 In due course, a decision was made by Debbie Basham or ER to change the disciplinary appeal hearing manager. Mr James Connelly was appointed. In a letter incorrectly dated 14 October 2021 (which must have postdated the 5 November 2021 and probably should be 14 November 2021), the claimant was invited to an appeal meeting. This states:-

> "During the meeting on 5/11/21 Rob attempted to discuss your appeal grounds in more detail however the unreasonable and unacceptable behaviour of your representative, John Neckles during the meeting prevented Rob from continuing.
>
> …
>
> Due to the unreasonable, unacceptable behaviour of your representative the meeting on 5/11/21 we request that you arrange for alternative representation to support you in the meeting. The representative you arrange to support you during this meeting needs to be either a work colleague or a Trade Union representative. If you would like someone with you, you should arrange this yourself. I would encourage you to share and discuss all relevant papers with them before the meeting.
>
> Should you choose not to attend the meeting with the alternative representation I will accept a written submission from you no later than 18/11.21. I will then conduct the meeting in your absence and provide you with a written outcome on conclusion."

84 James Connelly told us that the decision to exclude John Neckles was his based on advice from ER.

85 Mr Carter sought to advance an argument based on the section 10(1) requirement that the request to be accompanied at the hearing should be reasonable. His argument is as follows:-

> "It is submitted that in circumstances where a companion's unreasonable conduct has led to an adjourned and abortive appeal hearing, the request that he attend the adjourned appeal meeting was unreasonable because it undermined the purpose of the appeal."

86 In essence, Mr Carter is seeking to distinguish Toal by suggesting that, if a claimant knows that his representative is going to be disruptive, then it is an unreasonable request to have him at a future hearing. We find that there is no such distinction and the fundamental objection was to having John Neckles.

87 On 17 November 2021 the claimant, in a document drafted by John Neckles, reiterated his choice of John Neckles as his companion. On 18 November James Connelly wrote as follows:-

> **"**… I would like to confirm that we are not prepared to go ahead with the meeting with your choice of union representative, John Neckles in attendance due to his unreasonable, unacceptable behaviour during the meeting held on 5/11/21."

88 Notwithstanding that the letter dated 14/10/21 (actual 14/11/21) is couched in terms of a request, we find that this later statement was an unequivocal

refusal by the respondent to allow the claimant to be accompanied by a companion of his choice. As such, we find that there was a breach of section 10 of the Employment Relations Act 1999.

89 The appeal went ahead in the absence of the claimant and was rejected. We note that the respondent's appeal policy entitles the respondent to go ahead with a hearing if the claimant did not attend without good reason. We find that not attending due to being denied his statutory right to be accompanied by a companion of his choice was a good reason. As such, we find that the decision to proceed with the appeal hearing in the absence of the claimant was contrary to the respondent's policy.

90 The unanimous decision of the tribunal is that the decision to proceed with the appeal hearing in the absence of the claimant rendered the dismissal procedurally unfair.

91 Given the majority decision on the unfair dismissal, it is not necessary for us to go on to consider the chances that the claimant would have been dismissed in any event had a fair procedure been adopted.

92 We go on to consider the section 12 Employment Relations Act 1999 claims. We do not find that there was a failure to conduct a full, proper and objective grievance investigation. We do not find that the conduct of the grievance investigation and appeal was influenced in any way by the fact that the claimant exercised or sought to exercise his rights under section 10 of the EREL Act 1999.

93 We have already found that the claimant was denied his right to be accompanied. That claim is covered by the section 10 claim.

94 We find that there was a failure to conduct a fair appeal hearing. We find that that was because the claimant was seeking to exercise his rights under section 10 EREL Act 1999. We find that the detriment was not being able to advance his grounds of appeal in his disciplinary appeal hearing. We find that alleged detriments 4(1) – (vi) are covered by this finding.

95 Due to our findings, so we do not need to go on to address the time issue.

96 We will hear submissions on compliance with the Acas Code and contributory conduct at the remedy hearing.

_____

Employment Judge Alliott

Date: 12/11/2024

Sent to the parties on: 20/11/2024

For the Tribunal Office – N Gotecha

Recording and Transcription
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