



EMPLOYMENT TRIBUNALS

Claimant: Michael Flint

Respondent: Albany Apartments Limited

Heard at: Bristol ET **On:** 30th-31st October 2025

Before: Employment Judge Sanger

Representation

Claimant: Dale Fletcher, Union Representative

Respondent: Ms English, Litigation Executive

JUDGMENT

1. The claim for unfair dismissal is dismissed.
2. The claim for unlawful deduction from wages is dismissed.

REASONS

1. Mr Michael Flint brought a claim for unfair dismissal and a claim for the non-payment of wages against Albany Apartments Limited in the Employment Tribunal.
2. This is the decision of the Tribunal sitting at Bristol Employment Tribunal on 30th – 31st October 2025.

The Background and Issues

3. Albany Apartments Limited is a company set up in order to manage a single residential apartment block, Albany Apartments. Its board consists of Directors (who hold that role in a voluntary capacity) who are residents of the building. It employs fewer than ten staff, whose roles are to manage and maintain the apartment building.

4. The Claimant was employed by the Respondent between 1st November 2018 and 11th October 2022, when he was summarily dismissed for gross misconduct. There were four allegations:
 - a. In a call on 3rd August the Claimant acted in a threatening manner towards his line manager, Kim Leaver;
 - b. The Claimant acted in an unprofessional and unacceptable manner by:
 - i. On 9th July the Claimant acted in an aggressive manner and appeared intoxicated when the police were on the premises;
 - ii. On 6th August and 23rd July 2022 the Claimant drove while under the influence of alcohol;
 - c. The Claimant failed to comply with company rules and procedures, in that he accessed the lift motor room on 14th August 2022 and attempted to reset a lift, outside the role allocated to him in the Daily Operations Manual;
 - d. On 24th August 2022 the Claimant disclosed confidential company information by disclosing to other staff that he was suspended.
5. The Claimant denied the allegations and asserted that he was unfairly dismissed.
6. The Claimant also claimed, in his ET1 claim form, that the Respondent had unlawfully withheld his wages.

The Evidence

7. I reviewed a bundle of 204 pages and viewed a series of images prepared by the Respondent and a series of CCTV clips provided by the Claimant.
8. I was assisted by witness statements from the Claimant, Mr Ken Cohen, Miss Kim Leaver and Mr Michael Kalms. Mr Cohen was a former director of the Respondent and a current resident of the building. He gave his evidence in support of the Claimant. Miss Leaver was the Building Manager, employed by the Respondent, and was the line manager of the Claimant at the material time. Mr Kalms was a current director and current resident. It was he who made the decision to dismiss the Claimant after the disciplinary hearing and upheld that decision after appeal.

Findings of fact

9. The following facts were found on the balance of probabilities.
10. The Claimant was employed by the Respondent as a Building Maintenance Person, as per his contract, which he signed on 26th October 2018.
11. The Claimant lived in a flat on the ground floor of the building. He had a contractual entitlement to do so by virtue of his role.

12. The Claimant was generally respected and performed his role diligently and well. That view was shared by two of the live witnesses, Mr Cohen and Mr Kalms, and there were various written statements to that effect.
13. It was the Claimant's case that he had been promoted, at some time, to the role of Deputy Building Manager but I find that he was not.
14. I was invited to review the Chairman's Message of December 2018, which said:
The Board has also confirmed the appointment of Mike Flint as Building Maintenance Manager and Deputy Building Manager.
15. The signed contract that was exhibited was for the role of Building Maintenance Person. That was the only contractual documentation provided.
16. Mr Cohen recalled the Claimant being taken on as Building Maintenance Person but later being promoted. This is at odds with the Chairman's message. I found Mr Cohen to be an honest witness but he had no recourse to documentation and had ceased to be a Director of the Respondent company in 2020.
17. The Claimant asserted that that a new contract had been signed, but that he had not received a copy of it. The Respondent's witnesses had no recollection of this.
18. The exhibited contract, therefore, I have found to be the true record of the Claimant's position.

The allegations against the Claimant

Allegation 1: Acting in a threatening manner during a call with Kim Leaver on 3rd August 2022

19. A call was made by the Claimant on 3rd August 2022 during which there was a disagreement about some rota changes. Evidence of the call came from a transcript of a recording, prepared by Miss Leaver, and her evidence, which was that he had sounded angry and had shouted.
20. From the transcript it is clear that there was a disagreement and that each party was aggrieved by the behaviour of the other. I find that the Claimant was frustrated and raised his voice. That much was conceded by him.
21. However it was not Miss Leaver's evidence that she felt threatened and I therefore do not find that the Claimant behaved in a threatening manner.
22. Miss Leaver alleged that the Claimant sounded drunk. I accept the Claimant's evidence that his new false teeth may have made him sound drunk but I note that Miss Leaver knew him well and knew his voice. I find it more likely than not that the Claimant was intoxicated during the call.

Allegation 2a: Incident on 9th July 2022

23. Cliff Skey, Night Porter, made a statement on 12th September 2022. He reported that the police were in the building searching for a missing resident.

The Claimant appeared at reception, "drunk and agitated" and angry that he had not been called.

24. The Claimant gave no account of this incident in evidence. During the investigation meeting he stated that he had spoken only very briefly to the police, telling them that as the Assistant Building Manager it would have been nice to have been informed. He stayed for five or ten minutes and went back to his flat. In his appeal hearing he denied having drunk that day at all and described a brief conversation with the police but denied being aggressive.
25. According to Miss Leaver's review of the CCTV, the Claimant was present for around thirty minutes that day and his movements were erratic. I find it more likely than not that the Claimant was intoxicated and was agitated. By his own admission, he felt that he ought to have been called and was upset that Miss Leaver had been called instead. As I have already noted there was some tension between the two and the Claimant claimed a senior role to which he had never actually been appointed.

Allegation 2b: Driving while under the influence of alcohol on 23rd July and 6th August 2022

26. Nick Hunt provided a brief statement which was written by Kim Leaver after a conversation and approved by him. His evidence was that the Claimant was staggering around drunk and that his body language, on at least one of those occasions, was aggressive. Mr Hunt had seen Mr Flint enter the building in that state, having observed him driving into the car park on CCTV.
27. In the investigation meeting the Claimant said that he would never drink more than two pints before driving. The only time he would go out would be on a Saturday to play golf. Otherwise he was in the building. He consistently denied that he had driven home drunk.
28. I find it more likely than not, given that the evidence is from a further, unconnected witness, that the Claimant was intoxicated on those occasions.

Allegation 3: Access to lift motor room on 14 August 2022

29. On 14th August 2022, a passenger became trapped in one of the lifts and an engineer was called out. The engineer was unable to fix the problem and therefore isolated the lift at top of the car, meaning that any electrical reset at the panel in the motor room would have no effect. Other lifts in the building were working and available for use.
30. That same evening, at approximately 10:30 pm, the Claimant accessed the lift motor room via an external roof and attempted to reset the passenger lift. It was said by the Respondent that he was not authorised to reset the lift and that, even if he was, he was not on duty, was intoxicated, and had accessed the motor room via the external roof in the dark. It was further alleged that he was not permitted access to the motor room because it was under the control of contractors while the lifts were being upgraded and replaced.
31. It was undisputed that the route taken to the motor room that night was via the twelve storey building's roof and that the route included ascending and descending temporary scaffolding in the dark.

32. A resident, Sarah Maxwell, was disturbed by the Claimant's loud noises in the motor room and described hearing his slurred, drunk voice. Her observation, on seeing him from her flat's peep hole, was that he struggled to close a door and then went down the stairs by her flat in a "very drunk manner". This led to a complaint to the building management.

Training and authorisation to re-set faulty lifts

33. The Claimant consistently asserted that he was regularly called upon to reset the lift and had done so during the course of his employment with the Respondent. I am satisfied that he had, at some point, been trained to re-set the lift, and that he had done so regularly throughout his employment. I find, also, that he was regularly asked to do so when he was not on duty. While I do not accept that the Claimant was "on call" when he was off shift, I find that he regularly undertook maintenance tasks outside his working hours because it was convenient for people to knock on his door when he was off duty but at home. That is consistent with the evidence given by Mr Cohen.

34. This also explains how the Claimant was able to give a detailed description, in his oral evidence, of the layout of the lift room and the process for re-setting the lift. He explained that this was not a technical process but an electrical reset by which he turned the lift off and then back on. He described the layout of the room and the lighting. He described the sounds made by the system when resetting it. He was plainly familiar with the process and I find that he had been carrying it out on a regular basis.

35. The lift emergency procedures were produced in the bundle and referred to in evidence. They do not assist as they relate to emergency situations, which I find are distinct from the re-set scenario that was the subject of this case and the Claimant's dismissal.

Access to motor room and roof (generally)

36. Lift duties aside, the Claimant required regular access to the lift room. His role included assisting the lift engineers with locating switches and cables, maintaining the heating system and undertaking sampling for Legionella.

37. He had a set of master keys and described the usual process for access to the motor room, which was through the flat of a resident and not across the roof. It was agreed by the Respondent that this was the usual route to access the motor room and that the Claimant had the authority to do this for certain parts of his job.

38. It was the Respondent's position that, in August 2022, the motor room was out of bounds to everyone but the lift contractors.

39. Kim Leaver said that the Claimant would have known this, as there were contractors on site and everybody in the building was aware that the motor room was a building site.

40. The Claimant, on the other hand, gave evidence that access to the motor room was not restricted during the course of the construction project and that he had retained his keys and regularly undertook work in the area.

41. Miss Leaver gave evidence about a conversation with the Claimant on 8th August 2022 or in June 2022 (her oral evidence was at odds with her statement) when she had told him that under no circumstances was he to touch the lift. That was supported by Mr Kalms. The Claimant did not recall that being an instruction in respect of anything other than the day on which it was given.

42. This instruction not to touch the lifts casts further doubt, to my mind, on the respondent's position that the Claimant was not in the habit of resetting the lifts.

43. Taking all this into account I find that the motor room cannot have been out of bounds to the Claimant or that, if it was, that was not properly communicated to him. I also find that he continued to access the lift room for the purposes of carrying out his job, and to assist the lift engineers, for the duration of the lift works.

The night of 14th August 2022

44. The evidence as to how the Claimant came to be attempting to reset the lift came from the statement of concierge Cliff Skey, dated 12th September 2025, and the Claimant. Mr Skey gave a very brief account in which he described the Claimant as "half jugged, half cut, gagers (drunk)". He described a short conversation with the Claimant but stated "there was no mention of any maintenance around the building".

45. The Claimant recalled meeting someone in the car park who told him the lift had been off. Later Mr Skey told him that the lift had been playing up and he said that he would go and reset it.

46. The Claimant's report in the appeal hearing was consistent with his account in oral evidence. He conceded that his actions, in being out on the roof at night were "highly dangerous", because it was pitch black and slippery. He questioned how Ms Maxwell would have been able to see him in the dark but conceded that the noise made by the lift would have been loud enough to wake her. In any event, he does not dispute that he was where Ms Maxwell claimed to have seen him: outside her flat descending the internal stairs.

47. The Claimant did not suggest, at any time, that he was authorised to access the motor room via the roof of the building. He felt that he was doing what needed to be done in order to be helpful. He denied being intoxicated.

48. On the Claimant's account, the mention of the lifts by Mr Skey was brief and the lifts "locking out" was so regular that it may not have been remarkable. By the time Mr Skey made his statement on 12th September he may well have forgotten the details of the conversation. I find it unlikely that the Claimant would have gone to the lift room to attempt to re-set the lift without having been told that the lift was out of order. He would have had no reason to do so.

49. Whether or not the lift in question was one of the old (Total) lifts or one of the new (Stour) lifts remained in issue during the hearing. The Claimant's oral evidence was that the lift he attempted to reset was one of the older ones, the one on which he had been trained. Kim Leaver's evidence was that the lift had been replaced by that date. Again, there was no corroborative evidence from the Respondent to confirm when the lift was replaced.

50. It was agreed by both parties that the Claimant's actions on the night were an attempt to re-set the lift. I find it more likely that he would have attempted to re-set the existing lift than a newly installed lift upon which he had not been trained.

51. I come to the question of whether or not the Claimant was intoxicated when he accessed the motor room. The CCTV footage which was provided by the Claimant does not assist me either way but I am persuaded by the evidence of Sarah Maxwell and Cliff Skey, each of whom made the observation independently of the other.

52. The CCTV footage from that night does not assist either way. The Claimant certainly did not appear to be stumbling or incapable but it was impossible to assess his level of intoxication from CCTV clips.

53. I find it more likely than not that the Claimant was intoxicated that night. However I note that Mr Kalms observed that, had the Claimant carried out the same actions sober, he would have reached the same decision.

Allegation 5: Breach of terms of suspension

54. The Claimant was suspended, further to the motor room incident, pending an investigation. The suspension letter stated: "*You are also instructed not to contact or attempt to contact or influence anyone connected with the investigation in any way or to discuss this matter with any other employee or client of ours*".

55. Undoubtedly the Claimant did breach those terms, by his own admission. However I take the view that it would have been very difficult for the Claimant to have avoided all contact with colleagues given that he lived in the building and I accept his evidence that on each of the two occasions he is said to have spoken with colleagues, it was not he who started the conversations.

56. The Claimant also accepted that he had accessed the communal hallway, also in breach of the terms of the suspension letter. Given that the Claimant lived on site this was a difficult term to enforce, as the Respondent had determined that it would not be right to cause him to leave his accommodation before a decision had been taken. There being an alternative access to the flat, through the garage, that the Claimant was instructed to use, I find that he did access the communal entrance and that this put him in breach of the terms of his suspension.

The Investigation

57. Further to the complaint made by Ms Maxwell, the investigation commenced. The Claimant was informed of the four allegations against him and invited to an investigation meeting. He was advised that disciplinary proceedings may follow.

58. The investigation meeting took place on 5th September 2022 and was attended by the Claimant. He gave accounts for each of the four allegations to an external consultant.

59. Statements were gathered from the witnesses to the events in question and the Claimant was invited to a disciplinary hearing.

60. I find that the investigation into the Claimant's behaviour on the night of the 14th August 2022 fell short in two important ways.
61. Firstly, nobody was able to point to any clear evidence that the lift motor room was restricted and under the control of the contractors.
62. Secondly, and perhaps more importantly, this was a dismissal on the grounds that the Claimant's actions were dangerous, both to himself (in going out onto the roof) and potentially to others (had he got the lift working). I saw no evidence from the lift engineers as to the level of risk created by the Claimant's actions. The Respondent could not say that there was, in fact, a real risk that the Claimant could have put the lift back into action.
63. The fact of the matter is that the Claimant did not get the lift working. This, according to the Claimant, was because the car had been disabled in a different place and a re-set would never have overridden that.
64. The Claimant's decision to go onto the roof in the dark to access the motor room did, however, put him in danger.

Disciplinary hearing

65. Michael Kalms conducted the disciplinary hearing on 7th October 2022. This followed an invitation, sent on 27th September, for the following day. The date was rearranged to allow for his union representative to attend.
66. The Claimant was provided with the materials relied upon by Mr Kalms, to enable him to prepare. He complained that he was not provided with CCTV or the recording of the call with Kim Leaver, but those were not considered by Mr Kalms.
67. Communication around the invitation to the disciplinary hearing was poor and ultimately the Claimant did not attend. I saw a series of emails between the Claimant and Mr Kalms regarding meeting arrangements. It was claimed that there were no facilities available for the union representative to attend by video but he could attend by phone.
68. Minutes before the hearing, arrangements were still not finalised. It was not confirmed that the union representative might attend by telephone until 6 minutes before the meeting.
69. The net result was that the Claimant did not attend either. He was therefore not able to answer to the allegations.
70. Mr Kalms was asked what efforts he made to ensure that the Claimant could attend. He noted that he would not have walked to the Claimant's house and knocked on his door had he not lived in the building. His home was his private space. I accept that. However he could not recall whether he telephoned the Claimant to enquire whether or not he was planning to attend and I am not persuaded that he did so. Given the somewhat late and inconsistent messaging by email it would have been reasonable to telephone the Claimant to determine his position.

71. The Claimant's evidence was that he had made a decision not to attend because his union rep would not be there. There was a suggestion made, at the hearing, that he was intimidated by Mr Kalms. However this was not raised before the hearing and I do not accept that intimidation played a role in his refusal to attend.

72. No evidence was provided as to why a video call was not possible between the meeting room and the union representative and I find it difficult to believe, in this day and age, that such a thing was not possible. Mr Kalms and Miss Leaver both joined the hearing in these proceedings by video conference and produced typed documents, which suggests that the organisation was in possession of computers. In my view it would have been reasonable to allow the union rep to attend by video call.

73. Further, I heard no evidence that the Respondent had suggested postponing the hearing to a day when the union representative might attend in person. While was in the interests of the Claimant and the Respondent to ensure that the matter proceeded without delay, the net result was that the hearing was ineffective.

74. On 12th October a letter was sent to the Claimant to advise that the allegations had been proven and that he was to be dismissed for gross misconduct.

75. The decision to dismiss was made by Mr Kalms. Mr Kalms was clear in his oral evidence that he had made the dismissal decision alone. I saw nothing in the bundle, the Claimant's evidence or Miss Leaver's to contradict that. I find that Miss Leaver did not influence the process.

76. In oral evidence, Mr Kalms stated that the only allegation he took into consideration when making the decision to dismiss was the access to the roof on 14th August 2022. He had not considered other disposals, as he had found the Claimant's behaviour to be so dangerous, describing the Claimant's actions as breach of company policies, gross negligence, gross insubordination and failure to comply with instructions. He confirmed that he "ignored all the fluffy bits round the outside" such as whether the Claimant had been drunk as alleged.

Appeal hearing

77. An appeal hearing was conducted on 28th October 2022 by Alan Gregory, director of Belgarum Property Management Ltd, which assists the Respondent with the management of the property. The Claimant attended and his union representative was present via video call (later by phone owing to signal issues). Mr Gregory was not involved in the original investigation or the disciplinary hearing. I am satisfied that he was independent of both.

78. The relevant parts of the account given by the Claimant have been set out above. The issues were explored and the Claimant was given the opportunity to account for the four allegations.

79. Mr Gregory's findings were that the allegations were all upheld. He prepared a detailed report to that effect which was provided to the Respondent.

80. Further to Mr Gregory's report of 8th November 2022, Michael Kalms upheld the decision to dismiss the Claimant.

Submissions of the parties

81. The Respondent submitted that a comprehensive investigation was undertaken, a fair disciplinary process was followed and that the dismissal decision was fair and had been made for reasons of capability, conduct or some other substantial reason, in accordance with the company handbook. No concessions were made by the Claimant, who agreed he did not have authority to access the motor room via the roof at night and was not formally on call, but drew distinction between what was agreed on paper and what was precedent.

82. As a small company, the Respondent employed only two administrators and it relied heavily on outsourced advice, which it followed.

83. The Claimant submitted that a fair process was not followed and that he was therefore not fairly dismissed. His case was that the dismissal was unfair, because he had not had sufficient time to prepare, and biased, because Kim Leaver was the complainant and Michael Kalms the chair. The appeal ignored the evidence of his dentures causing his speech to be slurred and his slurred speech had simply been interpreted by the Respondent as intoxication. The suspension conditions were impractical and punitive and contact with residents could not be avoided. There was evidence supporting the Claimant's having been trained to reset the lifts and the Claimant had acted on the request of a colleague in a building he kept safe for residents.

84. The Claimant submitted that culture had deteriorated in recent months and that his relationship with Kim Leaver was difficult. He pointed to this as the potential reasoning for the decision to dismiss him which might not otherwise have been made.

Conclusions

The Claim for Unfair Dismissal

Was the Claimant dismissed?

85. The Respondent accepts that it dismissed the Claimant, and it asserts that it was for a reason related to conduct, which is a potentially fair reason for dismissal under s98(2) of the Employment Rights Act 1996.

86. I found that the Claimant was dismissed.

Did the Respondent hold a genuine belief in the Claimant's misconduct on reasonable grounds and following as reasonable an investigation as was warranted in the circumstances?

87. I found that the Respondent had a genuine belief in the Claimant's misconduct. The investigation was, for the most part, reasonable and appears to have been well-resourced.

88. The investigation fell short in one material way, which was that there was no investigation of the reality of whether the Claimant had, in fact, placed building

users in danger. I find that he did not and that a thorough investigation would have included a finding as to the risk which was brought about by the Claimant's actions.

89. However small the organisation, it is my finding that this would have been within the reasonable capabilities of the investigation team and would not have been disproportionate considering the level of sanction available; i.e. dismissal.

Was the decision to dismiss a fair sanction? That is, was it within the range of reasonable responses open to a reasonable employer when faced with these facts?

90. I come to the issue of dismissal. It is not for the tribunal to put itself in the shoes of the employer and determine what it would have done. The test is whether the decision to dismiss was within the range of reasonable responses.

91. The oral evidence of Mr Kalms was that he had not considered any other sanction than dismissal. Mr Kalms had considered only the most serious of the allegations in his decision. That was the incident on 14th August 2022. While he conceded, when questioned by his representative, that other options had been open to the Respondent, his position was that nothing other than dismissal was an appropriate response, given how dangerous he had judged the Claimant's conduct to be. It was his view that the Claimant had acted in contravention of instructions and policies and had committed gross misconduct.

92. I find that he should have considered alternatives. Given the Claimant's history and work ethic, it would have been open to the Respondent to take a different approach. I find this to be so particularly in a case such as this where the actions taken were intended to be helpful and were well-meaning. It was clear that the Claimant had been resetting the lifts for some time and the investigation showed that there was some ambiguity around his role, out of hours obligations and motor room access, all of which could have been clarified. For an employee with his record and tenure, there were other responses that would have also been reasonable.

93. The sanction of dismissal was a harsh one but, nonetheless, that does not make it unreasonable. According to the wording of the company handbook, an employee placing themselves in danger is gross misconduct and dismissal does, therefore, fall within the range of reasonable responses.

Did the Respondent adopt a fair procedure?

94. The disciplinary hearing was conducted without the presence of the Claimant and without his union representative being able to attend by video call. The status of the meeting was unclear less than ten minutes prior to it taking place. The Respondent did not take reasonable steps to secure the attendance of the Claimant and his representative. With that lack of clarity about the arrangements, this was not a genuinely fair opportunity for the Claimant to be involved in the decision.

95. At the appeal hearing, however, the errors were rectified. The Claimant was there, with his union representative attending by video link. When signal issues meant that he could only continue by telephone, that was consented to by all

parties. Time had been allowed for preparation and the Claimant was afforded the opportunity to put his case, which he did.

96. The Claimant claims that his evidence was ignored. I am satisfied that the Respondent considered that evidence alongside the other evidence and drew its conclusions from that. I am further satisfied that there was no undue influence and that the decision which was upheld at that stage was made independently.

97. The claim for unfair dismissal is therefore dismissed.

The Claimant's claim for the unlawful deduction of wages

98. A claim for the unlawful deduction of wages was included on the ET1 claim form. It was never quantified nor particularised and no evidence was filed or called on that point. The claim is therefore dismissed.

Employment Judge Sanger
Date: 09 December 2025

JUDGMENT & REASONS SENT TO THE PARTIES ON
05 January 2026

FOR THE TRIBUNAL OFFICE