EMPLOYMENT TRIBUNALS

Claimant: P Vijaikumar

Respondent: Menzies Aviation (UK) Limited

Heard at: Reading **On:** 6-8 October 2025

Before: Employment Judge Anstis

Representation:
Claimant: In person
Respondent: Ms S Cashell (counsel)

JUDGMENT having been sent to the parties on 23 October 2025 and written reasons having been requested in accordance with Rule 60 of the Employment Tribunals Rules of Procedure, the following reasons are provided:

REASONS

INTRODUCTION

1. These reasons are provided at the request of the claimant.

2. The claimant was employed by the respondent as a customer service agent. In practice this meant that he worked at Heathrow Airport for the airlines the respondent provided ground services for, typically engaged in check-in and boarding procedures on behalf of the airlines.

3. The claimant was an experienced employee, having transferred to the respondent from a previous employer on their acquisition by the respondent.

4. The claimant brings a claim of unfair dismissal only. He qualifies for the right not to be unfairly dismissed. The respondent says he was dismissed for a reason relating to his conduct. His dismissal letter says that "*the focus of our discussions at the hearing related to three allegations*", that is:

> *"Failure to follow reasonable management instructions, including:*

- *refusing to work landside on 15th December 2023 and complete Logan Air training tasks regarded by the company as an integral part of your role.*

- *refusing to attend a meeting on 8 January 2024 to discuss the problems identified.*

- *refusing to abide by arrangements agreed at the meeting on 15 December 2023, specifically that we agreed that you could take time out of the business to prepare for the meeting scheduled for 8 January 2024 (we had asked you to refrain from working on Saturday 6th, Sunday 7th and return on Monday 8th January 2024 to attend a meeting).”*

5. Having found that each of those three things had occurred (and it is the respondent’s position that the claimant admitted, or at least did not dispute that each had occurred), the dismissing officer said “*the principal reason for the hearing to consider your on-going employment was the manner of your dealings with your colleagues, refusing operational management instructions and in ability to maintain harmonious relationships*”. They concluded that “*there is sufficient evidence to justify a conclusion that amounts to gross misconduct and that the appropriate sanction is dismissal without notice or payment in lieu of notice*”.

6. The claimant’s claim form consisted of a long narrative of events, stretching back a considerable period of time before the first act of alleged misconduct relied upon by the respondent. It does not appear to be in dispute that prior to the Covid pandemic allocation of work (and the airline the respondent’s employees worked for) depended on the part of the relevant terminal they were assigned to – in the claimant’s case initially zone D and later zone D2. But after disruption caused by the Covid pandemic and considerable reorganisation of the respondent’s work, including substantial tranches of redundancy dismissals, the new allocation of work would be primarily between teams who serviced airlines that used the Altea software system and “OAL”, being all other airlines, who would use a range of different software products. It was the claimant’s long-standing position that he and others working on OAL had more difficult work to do than those working only with Altea, because they needed to work across multiple different software systems. In contrast, in the Altea group while airlines would have different policies and requirements, the underlying software staff were using was the same.

7. The claimant was also aggrieved at what he saw as short notice changes of duties or shifts.

8. The claimant did not disagree or dispute Ms Cashell’s reference to various flexibility clauses in his contact of employment or associated documents, and it was not part of his case that the respondent ever required him to work outside his contractual duties. His concerns seemed to be mainly with general fairness

in work allocation. In the time prior to the first alleged misconduct the claimant had resisted attempts to add other airlines to his work, generally escalating the point to more senior managers. Aside from setting a background in which the claimant was aggrieved at, as he saw it, being part of a cohort that worked harder than colleagues, and in which the respondent saw him as at best slow to take on the new duties they wanted him to take on, all this is simply background to what follows.

9. While the claimant had some difficulty with Ms Cashell's reference to express terms in his contract of employment, when asked whether a refusal to carry out a reasonable instruction could lead to immediate dismissal replied that this was "*a normal thing*", which I understood to be acceptance of the position that someone could be dismissed without notice for refusing to carry out a reasonable instruction.

10. To some extent the claimant's approach to this litigation in both his claim form and witness statement (the witness statement stretching to 75 pages) seemed to be that the wealth of detail he provided would lead obviously to the conclusion that his dismissal was unfair. I was concerned that, on the contrary, the extent of the detail provided may tend to obscure any underlying questions of fairness. Accordingly, as recorded in my order of 6 October 2025, I asked the claimant whether he accepted that his dismissal was for a reason related to his conduct (he did not) and to highlight for me the three principal points that he said showed that his dismissal was unfair. In fact, the claimant put forward four points, which are (taken from that order):

> *"a. That he was given a duty on 15 December knowing that he would not do it, and with the respondent looking for a negative reaction from him.*
>
> *b. That the respondent did not follow the ACAS Code of Practice on disciplinary and grievance procedures, in particular that they were not clear about the allegations he was facing and those allegations were changed.*
>
> *c. That none of the allegations against him were true.*
>
> *d. That throughout this process the respondent had the goal of dismissing the claimant."*

11. Finally at this stage I note that preparation for this hearing does not seem to have gone well, with the parties arriving at the final hearing with separate bundles and witness statements having been provided somewhere between one and three days before the final hearing. Issues in relation to this were addressed at the outset of the hearing, and were resolved by my order of 6 October 2025.

THE LAW

12. Ms Cashell had helpfully provided at the start of the hearing a skeleton argument outlining the legal principles that would apply to the claimant's case.

13. The starting point is, of course, section 98 of the Employment Rights Act 1996. It is for the respondent to show that the reason for the claimant's dismissal is a potentially fair reason (in this case a reason related to his conduct), and then, under section 98(4) (in respect of which there is a neutral burden of proof):

> *"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."*

14. Ms Cashell goes on at paras 26-33 in her skeleton argument to adopt various familiar propositions of law as to the reason for dismissal and the tribunal's approach to reasonableness in circumstances such as this. The correctness of her references is not in dispute, and I will bear them in mind in reaching my decision.

THE FACTS

The first alleged disciplinary incident

15. The alleged misconduct in respect of which the claimant was dismissed starts on 15 December 2023, when the claimant is allocated to work for the first time for Logan Air. There is a dispute between the parties as to whether this was a "shadow" training shift, or substantive work, but nothing depends on that. It is apparent that that claimant took this allocation of a new airline to him to be highly unfair. Indeed it is his case that it was a deliberate provocation by the respondent, designed to get a bad reaction from him. I do not, however, understand it to be said that it was work that the claimant could not, under his contract, be required to do.

16. It is also not in dispute that the claimant did not, in fact, carry out that shift. Quite whether this amounted to the claimant "refusing" to carry out the work did seem, at least in this hearing, to be in dispute.

17. It is the respondent's position that in the resulting investigation and disciplinary procedure the claimant had accepted that he refused to carry out the work. Ms Cashell took the claimant to passages in his witness statement where he said "*I said to* [the allocator] *that I won't do the duty*" and "*I gave reasons as to why I refused* [Logan Air] *duties*" (which also appeared in his claim form). The

claimant had prepared a transcript of his own covert recording of the investigation meeting at which he is recorded as saying "*I refused to shadow … I don't deny that*". While there are rival versions of notes for the disciplinary meeting, in the notes the claimant endorses there is no sign of the claimant contradicting Mr Barfoot (the disciplinary officer)'s statement that "*On 15th December you were asked to do logan air training, you said no I won't do logan air.*"

18. In the light of this it was somewhat of a difficult moment in the hearing when the claimant said (I think for the first time in answer to Ms Cashell's questions) that he had not refused to carry out the Logan Air work. Quite how this could be given what he had previously said was a mystery to me, as was what, if he had not refused the work, his reaction actually was, and how he had ended up not doing the work. Despite the otherwise very detailed nature of the claimant's account I was left unclear what he was now saying he had actually done. It appeared to be that he was not refusing to do the work but would only do so after having spoken to a manager. I find this impossible to reconcile with what is in his witness statement, claim form and what he himself notes that he said during the investigation. The claimant did refuse to do the Logan Air work.

The second and third alleged disciplinary incidents

19. A number of things seem to have followed from this refusal, but the most relevant for now is a meeting the claimant had with a HR and business manager that same day to address what had happened. The respondent says that the second and third items of misconduct arise from instructions he was given during that meeting. There are, again, two rival sets of notes for that meeting. I will proceed by reference to the claimant's transcript of his covert recording.

20. 15 December 2023 was shortly before a long period of holiday that the claimant was to take over Christmas. He had been due to return from holiday on 6 January 2024. The respondent's position is that during that meeting the claimant was told (or asked) not to attend work on 6 & 7 January 2024 and to report for a follow-up meeting at 2pm on 8 January 2024. The second and third elements of the alleged misconduct are that the respondent says (and it is not in dispute) that contrary to the instructions he had been given the claimant attended work on 6 & 7 January and did not attend the meeting on 8 January 2024 (or at least did not attend it on time). So the question is less about the claimant's attendance at work and non-attendance at the meeting and more what he was told to do or not do at the meeting on 15 December 2023.

21. The claimant's witness statement says this:

> "[the HR manager] *said there is some urgency here, he would like to offer me to meet with me after my holiday. He said he is going to make it very simple 'we'll meet with you on the 8th, at 2 o'clock. Don't come into work on 6th, just come to the meeting at 2 o'clock on the 8th. If you want to bring somebody with you, that's fine. But I'll expect to see you.'"*

22. The passage quoted by the claimant in his witness statement is taken from his transcript of the recording of the meeting.

23. Given this it was something of a surprise when the claimant said in answer to Ms Cashell's questions that he had not been told to stay away from work on 6 January. His notes and witness statement both record that he had been told not to come into work that day.

24. Exactly what the claimant understood the arrangements for 6, 7 & 8 January 2024 to be remain unclear, but a flavour of his explanation in this hearing is given by his response to Mr Barfoot during the disciplinary hearing (these are the notes in the form approved by the claimant):

> *"GB The second item I want to discuss is that you were advised not to come to work on 6/7 January 24.*
>
> *PV I was not advised, but asked to have an agreement, so therefore I didn't agree."*

25. As the claimant points out, not long in the transcript after saying "*don't come into work*" the HR manager does speak about "*agreement*". He says "*are you going to agree today's arrangements? Come meet with us at 2 o'clock on the 8th, and not to coming to work … arrangements. Are you committed to that?*" The claimant is noted as replying "*Nah, I'm committed to come ah next time meeting but with union representative*", and the HR manager says "*ok, ok, ok we got agreement on that*". Finally the claimant says "*oh so, that's, that I have to be there, that's what you saying so is … forcing me for that day to has to be that day. To come and then no come … but you wanna some action taken, I don't know. So that's why you saying bring the union representative I think, that day … I get what you mean.*"

26. The transcript is not particularly clear on these points, but it does seem that any question of "agreement" relates to the meeting on 8 January and that ultimately the claimant either agreed to that, or took it that the respondent was "*forcing me for that day*".

27. I find that the claimant was told to stay away from work on the 6th, which seems also to extend to the 7th as neither party made any distinction between the 6th and the 7th.

28. On 5 January 2024 the claimant was sent a letter by the HR manager which included:

> *"You are away from the business on leave from 16 December 2023 over the Christmas period through to the New Year and as such we scheduled a meeting at 1400 hours on 8 January 2024."*

29. Thus so far as that meeting was concerned, there could be no doubt by 5 January 2024 at the latest that the claimant was required to attend the meeting. He did not attend, even when he received emails at the time requiring his attendance. As far as I can tell, the claimant's position was that he would only attend if told he had to attend without a union representative.

30. Ms Cashell suggested to the claimant that he did not want to go to the meeting. The claimant denied this in his oral evidence, but Ms Cashell pointed to the transcript in which the claimant had noted himself as saying (when met by the HR manager ahead of the meeting) "*I don't wanna come to the meeting*". Even in the light of that the claimant maintained that he was willing to attend the meeting. This is, unfortunately, another instance of the claimant's oral evidence being completely at odds with the written evidence he had provided.

The claimant's suspension

31. Following this, the claimant was notified on 8 January 2024 of his formal suspension from work, "*pending further investigation into the following allegations:*

- *Your persistent refusal to cooperate with the Company over the past 12 months in respect of agreeing and implementing, or indeed even recognising as valid, an appraisal objective relating to the way that you deal with colleagues is a concern.*

- *Your failure to follow a reasonable management instruction to attend a meeting on 8 January 2024, which was regarded by the company as an integral part of your role and important in terms of your relationship with your colleagues.*

- *Your refusal to abide by arrangements agreed at the meeting on 15 December 2023, specifically that we agreed that you could take time out of the business to prepare for the meeting scheduled for 8 January 2024. We had asked you to reframe from working on Saturday 6th, Sunday 7th and Monday 8th January 2024."*

The grievance

32. This document also included an invitation to a "*rescheduled meeting*" to take place on 15 January 2024 at 15:00. The claimant was separately provided with a copy of the respondent's disciplinary procedure. On 13 January 2024 the claimant raised a grievance against, amongst others, the HR manager "*for falsely fabricating issues against me, bullying and harassing me into attending a meeting without Representation from Union, and therefore suspending me, going against procedures related to the Handbook*".

The investigation meeting on 15 January 2024

33. The investigation meeting took place on 15 January 2024. Unbeknownst to the respondent, in common with a number of the earlier meetings or discussions the claimant was recording it, and he has produced a transcript of it for this hearing. The claimant was accompanied at the meeting by his trade union representative.

Grievance meeting and outcome

34. In the meantime the respondent was taking steps to hear the claimant's grievance, with the original meeting to discuss the grievance having been postponed when the claimant objected to the manager who had been assigned to the grievance. A new manager was assigned and the grievance meeting took place on 30 January 2024. It appears that the disciplinary investigation, or at least its outcome, was paused pending completion of the grievance. The meeting could not be completed in the time allowed and was adjourned to 5 February 2024. On 23 February 2024 the claimant received the outcome of his grievance, which was not upheld.

Disciplinary hearing and outcome

35. Following this, a disciplinary hearing was scheduled for 25 February 2024. The notification of this said:

> *"The disciplinary meeting has been called to consider:*
>
> - *Persistent refusal to cooperate with the Company over the past 12 months in respect of agreeing and implementing, or indeed even recognising as valid, an objective relating to the way that you deal with colleagues is a concern.*
>
> - *Your attitude toward your line manager, Jo Sinclair and manner of your dealings with the management team over a sustained period of time, with no change after the problems had been identified.*
>
> - *Failure to follow reasonable management instructions, including:*
>
> - *continuing to be impolite towards your colleagues;*
>
> - *working irregular working hours including not complying with his start times;*
>
> - *refusing to work landside and complete Logan Air training tasks regarded by the company as an integral part of your role; and*
>
> - *refusing to attend a meeting on 8 January 2024 to discuss the problems identified.*

- *Refusal to abide by arrangements agreed at the meeting on 15 December 2023, specifically that we agreed that you could take time out of the business to prepare for the meeting scheduled for 8 January 2024 (we had asked you to reframe from working on Saturday 6th, Sunday 7th and Monday 8th January 2024).*

- *At a meeting on 15 December 2023, you adopted a steadfast refusal to acknowledge and visually engage with one of the Duty Managers … when she was speaking to you, notwithstanding feedback from the business to address the conduct identified."*

36. The notification enclosed an "investigation pack". Geoff Barfoot had been appointed as the disciplinary officer. He said in his evidence that he was from a different part of the business and had had no dealings with the claimant before. The claimant did not dispute this. The hearing was rescheduled at the claimant's request to 5 March 2024, and later to 13 March 2024.

37. The claimant did not record this meeting, nor did he mention in the meeting having recorded any of the other meetings or conversations. He was provided with notes of the meeting by the respondent, and subsequently provided his own notes based on those notes (a process that has been referred to as "correction"). So far I have referred to the notes as "corrected" by the claimant. The claimant was accompanied by his trade union representative in the meeting.

38. The claimant's position that he was not able to properly respond to the allegations in the disciplinary hearing was again undermined by his own notes, which record Mr Barfoot asking the claimant to "*give me your side of the story*" to which the claimant responds "*I won't be repeating everything again*". The claimant suggested that this mischaracterised his response, but I do not see how this can be when these were his notes. The claimant says that later he attempted to give a full account but this was not listened to, but this seems to be completely contradicted by a later entry in his notes, where Mr Barfoot says "*Can we start with 15th Dec – failure to follow a reasonable instruction*" and the claimant replies "*No, I already told you that I am not here to answer your questions and explain everything again*". We see in this something that was apparent through this hearing: a refusal by the claimant to address anything other than entirely on his terms. Ms Cashell drew my attention to the following additional passages in the "corrected" notes prepared by the claimant, where Mr Barfoot says variously:

> *"do you have anything to say?"*
>
> *"is there anything you want to add?"*
>
> *"anything else you want to add?"*
>
> *"this is an opportunity for you to tell me what happened?"*

And to the claimant's trade union representative: *"anything you want to add?"*

39. The claimant described these questions in his oral evidence as being a "*tactic*", but it is entirely unclear to me what he meant by that or how these could be considered a "*tactic*".

40. Many aspects of the claimant's claim and approach to matters has been difficult for me to understand, but those difficulties were most pronounced on the multiple occasions where things the claimant said in his oral evidence appeared to be contradicted by written notes that he had prepared or "corrected", or by his witness statement. The claimant was not deterred by what appeared to be obvious contradictions, and tended to proceed to give explanations for the apparent contradictions that I found completely incomprehensible. Instances of this have been given previously, but a further example is that in exploring with the claimant his position that the dismissal and appeal officers were biased, Ms Cashell asked something to effect of how the claimant would have expected them to behave differently to how they had behaved if they were not biased. The claimant said "*an impartial manager would ask for the story. That is what impartial is.*" The claimant did not seem to realise at the time that what he was suggesting was almost an exact quote of the "*give me your side of the story*" that the claimant's "corrected" notes record Mr Barfoot as saying at the start of the disciplinary hearing. The claimant's explanation as to how this did not indicate impartiality in Mr Barfoot's case was, I regret to say, completely incomprehensible to me.

41. On 15 March 2025 Mr Barfoot wrote to the claimant with the disciplinary outcome. I have already quoted from this letter at this start of this decision. The claimant was dismissed with immediate effect on 15 March 2025.

Appeals

42. Appeals followed in respect of both the grievance and the disciplinary decisions, but without success.

DISCUSSION AND CONCLUSION

The reason for dismissal

43. I will address the reason for dismissal alongside two associated elements of alleged unfairness – that the claimant *"… was given a duty on 15 December knowing that he would not do it, and with the respondent looking for a negative reaction from him*" and "*that throughout this process the respondent had the goal of dismissing the claimant.*" Each of those suggests that the reason for dismissal is not the one that has been given but is another reason.

44. It is for the respondent to show the reason for dismissal. Mr Barfoot has set out his previous lack of involvement with the claimant, and given what he says is

the reason for dismissal. The claimant has not given details of the person who he says gave him the duty despite knowing that he would not do it, nor has he suggested why they would do such a thing. I see nothing in the evidence before me to disturb Mr Barfoot's account of his reason for dismissal nor his lack of any ulterior motive for dismissing the claimant. The idea that "*throughout this process the respondent has the goal of dismissing the claimant*" was never pursued by the claimant in his questions of the respondent's witnesses, nor has the claimant put forward any idea of how this could have happened given the apparent lack of prior involvement by Mr Barfoot.

45. I accept that the reason for the claimant's dismissal was a reason relating to his conduct.

Fairness generally

46. On the question of fairness generally, it appears to me that the respondent has applied an orthodox disciplinary process to allegations which the claimant himself accepts it would be normal to be dismissed for. I reject the suggestion that he was deliberately provoked by being given the Logan Air duty, or that his dismissal was predetermined, for the reasons previously given.

47. That leaves, from the "top four" items of unfairness, that the allegations were not clear and were changed, and that the claimant did not in fact commit the misconduct in question.

48. In his closing submissions the claimant's position on the allegations was not so much that they were unclear, but that not all of them were addressed. I accept that is the position. There were more allegations against him than the three that Mr Barfoot dealt with. On the whole, of course, dealing with fewer allegations than they could have might normally be taken to be in the employee's favour. Not to pursue all the allegations would generally be seen to advantage rather than disadvantage an employee. I am not adopting any general rule to that to drop allegations along with way can never be unfair. Much depends on the circumstances. But the question is whether for some reason it was unfair for Mr Barfoot to not pursue all the allegations against the claimant, and I do not see any basis on the facts of this case on which that can be said to be unfair.

49. As for the claimant not committing the misconduct in question, I have found that he did, and that generally speaking he had admitted to doing so from the start. As Ms Cashell reminded me, on the question of unfair dismissal the issues is not so much whether the claimant actually committed the misconduct in question, but whether the disciplinary officer genuinely believed, on reasonable grounds and after as much investigation as was reasonable, that he had done so. It seems to me that there was an ample basis on which Mr Barfoot could and did come to that conclusion.

50. As for other matters, the claimant in his closing submissions covered a wide range of matters in a manner that I found, despite my occasional interventions,

almost impossible to follow. There were certain themes that emerged and I will do my best to assess them, although in doing so I am going to have to speculate to fill in some gaps as to what point the claimant might have been wanting to make.

51. The claimant repeatedly criticised the respondent for not calling as witnesses the two managers who had attended the 15 December 2023 meeting with him. It seems the claimant wanted to cross-examine them, but I remain wholly unclear as to why he may want to do that or what it may then establish as to the fairness of his dismissal. A linked point seemed to be a contention from the claimant that Mr Barfoot had no evidence from them as to what happened on 15 December 2023, but that is not true. If the claimant's case either before Mr Barfoot or today had depended on what was or was not said on 15 December 2023 then he had an almost perfect record of this by way of his covert recording, but he never mentioned this to Mr Barfoot and as we have seen that recording does not necessarily assist him.

52. The claimant, as he has throughout this case, made reference to notes of various kinds being "fabricated". I had expressly invited the claimant to explain in his closing submissions what the important differences were between the various notes and what difference they made to the question of whether he had been unfairly dismissed or not. The claimant did not do so and I do not feel I can take that point further in those circumstances.

53. Finally, it was the claimant's position that even if his dismissal was not a foregone conclusion then the disciplinary and appeal officers were at least biased. The basis on which he said this seemed to vary, but ultimately seemed to be because the appeal officer said that the original notes would be kept alongside any amendments made by him, rather than the amendments being accepted as the authoritative version. I do not see any basis on which this could be said to suggest an unfair dismissal by way of either the dismissing officer or the appeal officer being biased.

Conclusion

54. The decision to dismiss the claimant was within the range of reasonable responses open to the respondent and was not unfair.

Approved by Employment Judge Anstis
5 November 2025

Sent to the parties on:

13 January 2026

For the Tribunal:

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