EMPLOYMENT TRIBUNALS

Claimant: **Helen Taylor**

Respondent: **Sysco GB Limited**

Heard at: **Leeds (by CVP)** **On:** **9th January 2026**

Before: **Employment Judge Edwards**

Representation
Claimant: In person
Respondent: Mr E Stenson (Counsel)

RESERVED JUDGMENT

1. The complaint of unfair dismissal is not well founded and is dismissed.

REASONS

Introduction

2. This is a claim for unfair dismissal by Ms Helen Taylor, the claimant, against her former employer, Sysco GB Limited, the respondent. The respondent asserts that the claimant was dismissed for gross misconduct and the dismissal was fair. The claimant's claim is that the real reason for dismissal was redundancy and the dismissal was unfair.

3. The issues to be determined were agreed at the beginning of the hearing and were as follows:

   Unfair dismissal

   3.1. 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.

   3.2. If the reason was misconduct, did the respondent act reasonably or unreasonably in all the circumstances, including the respondent's size and administrative resources, in treating that as a sufficient reason to dismiss the claimant? The Tribunal's determination whether the dismissal

was fair or unfair must be in accordance with equity and the substantial merits of the case. It will usually decide, in particular, whether:

3.2.1. there were reasonable grounds for that belief;
3.2.2. at the time the belief was formed the respondent had carried out a reasonable investigation;
3.2.3. the respondent otherwise acted in a procedurally fair manner;
3.2.4. dismissal was within the range of reasonable responses.

Remedy for unfair dismissal

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

3.3.1. What financial losses has the dismissal caused the claimant?
3.3.2. Has the respondent proven that the claimant failed to take reasonable steps to replace their lost earnings, such as by failing to take reasonable steps to find another job?
3.3.3. For what period of loss should the claimant be compensated?
3.3.4. 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?
3.3.5. If so, should the claimant's compensation be reduced? By how much?
3.3.6. Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?
3.3.7. Did the respondent or the claimant unreasonably fail to comply with it?
3.3.8. If so, is it just and equitable to increase or decrease any award payable to the claimant? By what proportion, up to 25%?
3.3.9. If the claimant was unfairly dismissed, did they cause or contribute to dismissal by blameworthy conduct?
3.3.10. If so, would it be just and equitable to reduce the claimant's compensatory award? By what proportion?
3.3.11. Does the statutory cap of fifty-two weeks' pay or £118,223 apply?

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

3.5. 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. I had the benefit of a joint bundle of documents running to 226 pages. I was provided with a witness statement from the claimant and witness statements from Mrs Abigail Sturton and Mr Lee Cassin on behalf of the respondent.

5. I heard oral evidence from the claimant, Mrs Sturton and Mr Cassin. I found the oral evidence given by the respondent's witnesses to be clear and consistent with the contents of their witness statements and the contemporaneous documents. I found that the oral evidence given by the claimant deviated, in a number of respects, from the evidence she provided to the respondent during the investigation, disciplinary and appeal meetings and deviated from the evidence in her witness statement. The claimant's explanation that, where there was an inconsistency between her oral evidence and the contents of the meeting notes, it was because the notes were

inaccurate, was not credible. The claimant did not produce any evidence, other than a single oral assertion that she had told HR, that she raised concerns regarding the accuracy of the meeting notes at any stage of the process, and this was not included as an explanation in her witness statement. On that basis, where the claimant's oral evidence deviated from the contemporaneous documents and the respondent's witness evidence, I preferred the evidence of the respondent and the documents.

6. This judgment does not seek to address every point about which the parties have disagreed. It only deals with the points which are relevant to the issues that the tribunal must consider in order to decide if the claim succeeds or fails. If I have not mentioned a particular point it is not because I have overlooked it, it is simply because it is not relevant to the issues.

Findings of Fact

7. The following findings are made on the balance of probabilities.

8. The claimant commenced employment with the respondent on 23rd April 2018 and on the date her employment terminated, she was employed as a Senior Sales Manager in the respondent's Fresh Direct Street Sales team. The claimant lived in Hull and she was responsible for managing sales activity across Manchester and the North West.

9. The claimant's role required frequent travel to her region from Hull, to visit her customers and to try and generate new customers by visiting prospects, and the claimant normally travelled by car. The claimant had management responsibility for one direct report.

10. The claimant was provided with a company vehicle and was entitled to use the vehicle for company business and for personal use. The respondent reimbursed the claimant for mileage incurred on company business at a rate of 45 pence per mile. The claimant was required to keep a record of her company and personal mileage and to submit expense claims for company mileage through a system called The Miles Consultancy (TMC), each month. If an employee made an error when inputting their mileage claim they were required to contact TMC to log the error and request that it be rectified. Mileage and expenses submissions are checked by a manager before being authorised for payment.

11. The respondent is a national wholesale food company. The respondent has a number of different divisions and operates across the country. The respondent delivers frozen and ambient foods to its customers and has strict processes in place for monitoring deliveries. The respondent operated a code of conduct, which all employees, including the claimant, were required to comply with.

12. Employees, including the claimant, received annual training on the code of conduct. The code of conduct included a requirement to comply with "robust food safety and quality compliance programs" and "food safety management systems". The respondent operated a list of approved suppliers that had undergone strict vetting and employees were not permitted to use alternative suppliers without management authorisation. Food was transported and delivered by designated teams and things such as temperature during transportation were monitored and recorded. This was in order to comply with

health and safety and food safety standards and legal requirements.

13. At some point during her time as Senior Sales Manager, the claimant's manager did indicate that they did not need a senior manager role in the team and questioned the value it brought. This caused the claimant to believe that redundancy could arise in the future. The respondent did not begin a redundancy consultation.

14. From the beginning of December 2024, the claimant's line manager was Mr A Bolger. On 12th December 2024 Mr Bolger emailed his management team confirming that, from that point forward, he required them to diarise all their appointments in Microsoft Outlook and stated that "if it is not in outlook, it did not happen". This instruction was repeated in an email on 20th December 2024.

15. Mr Bolger had not authorised the claimant's mileage submission for November 2024. The claimant's normal practice, prior to this instruction, was to diarise her appointments in a paper diary and she had not habitually used Outlook except where appointments required an invite to a third party. The claimant emailed Mr Bolger on 20th December and confirmed that she understood what was being asked of her regarding mileage and said that was fine. The claimant indicated that she could not confirm her visits for November 2024 because they had been recorded in her paper diary, which she had disposed of and had not recorded the information in Outlook. The matter regarding her November mileage was not taken further.

Investigation

16. The claimant submitted her mileage expenses for March 2025 just before she went on annual leave. On her return from annual leave on 15th April 2025 the claimant was required to attend an investigation meeting with Mr Bolger. Mr Bolger informed the claimant there were some anomalies in her mileage claims for February and March 2025. The claimant accepted in the meeting that her Outlook diary was not up to date and did not accurately record all her meetings and appointments. Mr Bolger queried why the claimant had not submitted any parking expenses and the claimant confirmed she'd not yet "done any of my receipts". The claimant was asked to submit her parking expenses by the end of the day and given an opportunity to check her expenses claims.

17. A follow up investigation meeting was held on 17th April 2025 between the claimant and Mr Bolger. In the meeting the claimant accepted that her Outlook diary did not accurately reflect the timing of her appointments on a number of days and that she had submitted her expenses claims based on the inaccurate diary information rather than her actual movements. She also informed Mr Bolger that she accurately records her personal mileage but for her business mileage she enters the trip details and uses the TMC system to calculate the maximum mileage for the trip and claims that mileage. She did not keep accurate records of her business mileage.

18. The claimant informed Mr Bolger that on 4th March 2025, one of her customers had not received prawns and salmon they had ordered. The claimant confirmed that she bought prawns from an unauthorised supplier without management authorisation, paid for them herself, transported them in her car, delivered them and the customer paid her back. The claimant said that she "panicked" as it was the respondent's mistake and she didn't want to lose the

customer.

19. The claimant informed Mr Bolger that her mum has a blue disabled badge and that she had sometimes used it to park whilst at work, when her mum was not with her. She informed him that her mum had told her that she could get a £1000 fine for using it. She admitted that she had used it to park in a parking bay because it's easier than logging in to pay and she knew she was not supposed to.

20. At the conclusion of the meeting the claimant was suspended from work pending further investigation. Mr Bolger wrote to the claimant on 17th April to confirm the suspension. Mr Bolger concluded that there was a disciplinary case to answer.

21. The respondent's disciplinary policy states that the following are examples of gross misconduct and that the respondent may dismiss an employee without notice for instances of gross misconduct:

    21.1. Serious breaches of trust and/or confidence;
    21.2. Serious breach of rules or procedures.

Disciplinary

22. Mrs Sturton was appointed by the respondent to conduct the disciplinary meeting. Mrs Sturton was a Commercial General Manager for Brakes Catering Equipment based in Leeds. Mrs Sturton was not employed in the same division as the claimant. Mrs Sturton did not know the claimant and did not have any prior knowledge or dealings with her and was more senior to the claimant.

23. Mrs Sturton wrote to the claimant on 23rd April 2025 inviting her to attend a disciplinary hearing on 29th April 2025. Mrs Sturton informed the claimant of the allegations against her, namely:

    23.1. Serious breach of trust and confidence by fraudulently claiming expenses for mileage which you did not complete;
    23.2. Serious breach of trust and confidence that despite not being disabled you have used a blue badge whilst in a company vehicle visiting Customers, which could call the company into question by the traffic commissioner;
    23.3. Serious breach of company rules and procedure by not following guidelines on preferred suppliers and disregard of high-risk food handling.

24. Mrs Sturton provided copies of the evidence that would be referred to in the meeting, informed her of her right to be accompanied by a work colleague or trade union official, provided reasonable notice of the hearing and confirmed that one potential outcome of the hearing could be termination of employment for gross misconduct without notice or pay in lieu of notice.

25. The claimant emailed HR on 28th April to inform them that she was not fit to work or attend the hearing because of stress and anxiety because of the investigation and personal issues and HR cancelled the hearing.

26. On 28th April Mr Bolger emailed the claimant to confirm the hearing had been

rescheduled to 6th May 2025, the date the claimant was due to return to work and informed her that if she did not attend, the hearing may go ahead in her absence.

27. Prior to the disciplinary hearing taking place, Mrs Sturton contacted Mr Bolger to clarify her understanding of operational practices and procedures in the claimant's division. Mrs Sturton was informed that the Field Sales team do not transport high-risk foods in their cars. Temperature-controlled vehicles are used to ensure safe delivery of food with full traceability. In cases of shortened food orders, there is a recovery process in place whereby the respondent resends the order in a temperature-controlled vehicle from a certified supplier, maintaining traceability to ensure quality and safety.

28. The disciplinary hearing took place on 6th May 2025 via Teams and was chaired by Mrs Sturton. In the hearing the claimant:

    28.1. Admitted that, once or twice, she had used her mum's blue badge to park when at work because she did not have the money for parking. She accepted that she knew there was a risk she could get a fine and a risk to her mum but had not realised there would be an impact on the company;
    28.2. Admitted that she had transported fruit and vegetables in her car and that other colleagues do the same;
    28.3. Accepted there were a number of entries in her Outlook diary that were inaccurate;
    28.4. Admitted that she had put her mileage claim in "back to front" and it did not match her actual movements.
    28.5. That the maximum mileage she could do on a tank of petrol as 430 miles but;
        28.5.1. on 26th and 27th February she had claimed for 540 miles without filling the vehicle;
        28.5.2. in the week commencing 10th March, she had claimed for 600 miles without filling the vehicle; and
        28.5.3. in the week commencing 24th March, she had claimed for 600 miles without filling the vehicle.
    28.6. Stated she thought she had charged the vehicle (which is a hybrid) and paid for the charging but did not have the receipts.
    28.7. Admitted she had claimed mileage for a journey to Manchester on 26th March but had actually worked from home and had been confused about her dates. The claimant did not contact TMC to report an error in her submission, which was normal company process.
    28.8. Admitted that she had purchased Salmon and Prawns from an unaccredited supplier and transported in her car without the temperature of the fish being checked. She stated that she did not know she wasn't permitted to purchase from unaccredited suppliers as they had been able to do that in the past.
    28.9. Admitted that she knew the risk to consumers but was more focused on not losing the customer and accepted it was a mistake.
    28.10. Admitted she had personally paid for the fish and was paid back by the customer and she had not declared it to her manager. The claimant said she had receipts and WhatsApp messages as an audit trail of the transaction and would provide them after the meeting.
    28.11. Admitted that her behaviour had been reckless and apologised.

29. The claimant claimed that other colleagues also transported products in their vehicles but did not provide any names or specific examples of such instances during the investigation, disciplinary or appeal. In oral evidence, the claimant indicated that she had, only a week or two before the incident with the seafood, been instructed by Mr Bolger to purchase fish from an unauthorised supplier and transport it in her car to a customer. However, this was not raised in any of the meetings that took place during the disciplinary process and was not contained in the claimant's witness statement. I therefore find that the claimant was not given such an instruction by Mr Bolger and, in any event, did not inform the respondent of that instruction during the disciplinary process.

30. On 7th May the claimant emailed Mrs Sturton with the receipts and evidence of the seafood purchases. She informed Mrs Sturton that she had charged her car at home and that using super unleaded fuel can increase the mileage range of a vehicle by 40-80 miles. She confirmed that the incorrect mileage claim on 26th March was a mistake and not intentional.

31. Mrs Sturton took into consideration the contents of the claimant's email. She did not telephone or make further enquiries into whether or not the specific trips that were claimed had actually been carried out by the claimant. She did not carry out those investigations because the claimant had already admitted errors in her diary and mileage claims along with admitting the allegations regarding the transportation of the seafood and use of the blue badge. Mrs Sturton took into consideration the claimant's length of service and clean disciplinary record when making her decision regarding the sanction to apply.

32. The claimant attended a disciplinary outcome meeting on 9th May 2025 when Mrs Sturton informed her that she would be dismissed for gross misconduct with immediate effect. She was informed of her right to appeal the decision. A follow up letter was sent to the claimant on 9th May confirming the termination of her employment. The letter confirmed the reason for the decision, namely:

    32.1. She had dishonestly submitted incorrect mileage expenses on 4th and 27th February and claimed for mileage she did not complete on 26th March.
    32.2. She had used her mum's blue badge to park whilst on company business, which was a criminal offence and in circumstances where she knew she should not use it; and
    32.3. She breached company procedure by purchasing seafood from an unauthorised supplier and transporting it in an inappropriate manner, putting the health and safety of consumers and the reputation of the respondent at risk.

<u>Appeal</u>

33. On 13th May the claimant appealed the decision to dismiss her. The reason for the appeal was that the claimant considered the decision had been made without full consideration of the circumstances and there had been misunderstandings or factors that were not taken into account.

34. Mr Cassin, Head of Central Distribution Sales in the Fresh Corporate Sales Team, was appointed to conduct the appeal hearing. Mr Cassin did not have a professional relationship with the claimant prior to the appeal meeting and worked in a different division of the respondent. Mr Cassin read and considered

the details of the investigation and disciplinary meetings and supporting evidence.

35. On 15th May the HR sent the claimant an email informing her that her appeal meeting would take place on 21st May. This was rearranged at the claimant's request and HR wrote to the claimant on 20th May confirming that the appeal meeting would take place on 22nd May. The claimant was informed of her right to be accompanied by a work colleague or trade union official.

36. The appeal hearing took place on 22nd May. At the outset of the hearing the claimant admitted that she had purchased seafood from an unauthorised supplier and transported it in her car. The claimant accepted it was a reckless decision but felt it was a grey area and she had the authority to make the decision. The claimant had worked with seafood in a previous role and knew the protocols and risks but considered the risk to be small.

37. The claimant also admitted in the appeal hearing that she was guilty and shouldn't have used the blue badge and she knew it was wrong. It had not occurred to her that it would put her job at risk.

38. In the appeal meeting, the claimant admitted that she had claimed mileage for 26th March when she worked from home but indicated this was an error, which arose because her Outlook diary was not accurate and it was a genuine mistake. The claimant maintained that, for the other journeys, she had carried them out, but they had been entered the wrong way round in the expenses system as her diary was not up to date.

39. An appeal outcome meeting was held on 2nd June 2025 and Mr Cassin informed the claimant that the decision to summarily dismiss her was upheld. The decision was confirmed in a letter dated 3rd June 2025. Mr Cassin considered the evidence presented in the investigation and disciplinary meetings, the information provided in the appeal meeting and the overall process when making his decision.

Law

Unfair Dismissal

40. **s.98 Employment Rights Act 1996 (ERA)**

(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.

41. The burden of proof is on the employer to establish the reason for dismissal and that it was a potentially fair reason pursuant to s.98(1) and (2). **Gilham and ors v Kent County Council (No.2) 1985 ICR 233, CA**: "The hurdle over which the employer has to jump at this stage of an inquiry into an unfair dismissal complaint is designed to deter employers from dismissing employees for some trivial or unworthy reason. If he does so, the dismissal is deemed unfair without the need to look further into its merits. But if on the face of it the reason could justify the dismissal, then it passes as a substantial reason, and the inquiry moves on to S.98(4), and the question of reasonableness."

42. **Associated Society of Locomotive Engineers and Firemen v Brady 2006 IRLR 576, EAT -** it is for the employer to show, on the balance of probabilities, that the principal reason was one of the potentially fair reasons, and it is then open to the employee to adduce some evidence that casts doubt on whether the reason put forward by the employer was indeed the real reason for dismissal. If this happens, the employer will have to satisfy the tribunal that its proposed reason was in fact the genuine reason relied on at the time of dismissal. **London Borough of Brent v Finch EAT 0418/11**, the EAT emphasised that if an employee wishes to cast doubt on an employer's seemingly fair reason for dismissal, he or she must adduce some evidence in this regard.

43. In misconduct dismissals, there is well-established guidance on fairness within section 98(4) in the decisions in **Burchell 1978 IRLR 379** and **Post Office v Foley 2000 IRLR 827**. The Tribunal must decide whether the employer had a genuine belief in the employee's guilt. Then the Tribunal must decide, without there being any burden of proof on either party, whether the employer held such genuine belief on reasonable grounds and after carrying out a reasonable investigation. In all aspects of the case, including the investigation, the grounds for belief, the penalty imposed, and the procedure followed, the Tribunal must decide whether the employer acted within the band or range of reasonable responses open to an employer in the circumstances. It is immaterial how the Tribunal would have handled the events or what decision it would have made, and the Tribunal must not substitute its view for that of the reasonable employer (**Iceland Frozen Foods Limited v Jones 1982 IRLR 439, Sainsbury's Supermarkets Limited v Hitt 2003 IRLR 23,** and **London Ambulance Service NHS Trust v Small 2009 IRLR 563**).

44. **Royal Society for the Protection of Birds v Croucher 1984 ICR 604, EAT** - The Burchell guidelines are clearly most appropriate where misconduct is suspected. Little purpose would be served by an investigation where the misconduct is admitted.

45. **Scottish and Southern Energy plc v Innes EATS 0043/10** - confirmed the limited relevance of investigation under the third limb of the Burchell test to cases of admitted misconduct.

46. **Hope v British Medical Association [2022] IRLR 206** - Whether dismissal by reason of conduct is fair or unfair within s.98(4) depends not on the label or characterisation of the conduct as gross misconduct, but on whether, in the circumstances (including the employer's size and administrative resources), the employer has acted reasonably in treating it as a sufficient reason for dismissing the employee.

47. **Sandwell and West Birmingham Hospitals NHS Trust v Westwood UKEAT/0032/09** - As well as an employer's reasonable belief that an employee had committed misconduct, a finding of gross misconduct justifying dismissal required that the conduct alleged was capable of amounting to gross misconduct. The conduct had to be a deliberate contradiction of the contractual terms or had to amount to gross negligence. I have given particular consideration to paragraphs 108 – 113 of that judgment.

48. **Eastland Homes Partnership Ltd v Cunningham EAT 0272/13** - In determining the reasonableness of a summary dismissal, the tribunal must have regard to whether the employer had reasonable grounds for its belief that the employee was guilty of gross misconduct.

49. **Hewston v Ofsted 2025 EWCA Civ 250, CA** - illustrates the importance of forewarning employees of the types of conduct that might attract dismissal. However, **Hodgson v Menzies Aviation (UK) Limited UKEAT/0165/18** the EAT rejected the notion that, for disciplinary rules to be compliant with the ACAS Code, they must contain an exhaustive list of possible offences. An employer is entitled to look at the conduct as a whole and in the round in reaching its conclusion.

50. **Brito-Babapulle v Ealing Hospital NHS Trust 2013 IRLR 854, EAT** - A finding of gross misconduct did not automatically mean that a dismissal would be justified as a reasonable response. An employer should consider whether dismissal would be reasonable after considering any mitigating circumstances.

51. **Hadjioannou v Coral Casinos Ltd 1981 IRLR 352** - Treatment of other employees in similar circumstances is relevant:

    51.1. if there is evidence that the dismissed employee was led to believe he would not be dismissed for such conduct;
    51.2. where the other cases give rise to an inference that the employer's stated reason for dismissal is not genuine; or
    51.3. if, in truly parallel circumstances, an employer's decision can be said to be unreasonable in a particular case having regard to decisions in previous cases.

52. **Securicor Ltd v Smith 1989 IRLR 356, CA** - the question of consistency is subject to the 'range of reasonable responses' test.

53. **Wilko Retail Ltd v Gaskell and anor EAT 0191/18** – 'provided the assessment of the similarities and differences between different cases was one which a

reasonable employer could have made, the employment tribunal should not interfere even if its own assessment would have been different'.

Conclusions

What was the reason or principal reason for dismissal?

54. The respondent's case was that the claimant was dismissed for gross misconduct. The claimant's position is that the real reason for dismissal was redundancy.

55. Mr Bolger had, in December 2024, outlined to the claimant his expectations with regard to appointments being recorded in Outlook. He was required to check expenses claims before they were authorised. Mr Bolger identified discrepancies in the claimant's mileage claims submitted in February and March 2025 and arranged a meeting to discuss those discrepancies with the claimant on her return to work from annual leave.

56. Mr Bolger held two investigation meetings with the claimant on 15th and 17th April 2025. During the investigation meetings the claimant admitted a number of errors in her Outlook diary records, which resulted in her submitting mileage expenses claims that were inaccurate. The claimant submitted mileage claims based on the contents of her diary, but her diary did not accurately record what appointments she had attended or when.

57. The claimant made further admissions in the investigation meeting, including that she did not accurately record her business mileage, only her personal mileage, she had used her mum's blue badge to park for work purposes and that she had purchased seafood from an unauthorised supplier, with her own money, without declaring it, transported the seafood in her car without appropriate tracking and monitoring.

58. The respondent held a disciplinary meeting and the disciplinary allegations outlined to the claimant are examples of gross misconduct in the respondent's disciplinary procedure. Mrs Sturton had no prior knowledge of the claimant and did not work in the claimant's division.

59. During the disciplinary meeting the claimant again admitted that she had inaccurately claimed mileage expenses because her diary did not accurately record her appointments, that she had claimed mileage for a day when she had worked from home, that she had purchased seafood from an unauthorised supplier and transported in her car without appropriate tracking and monitoring. She also admitted that she had used her mum's blue badge when parking on business and that she knew this was risky and wrong.

60. The claimant sought to establish that the reason for her dismissal was redundancy. The claimant relies upon alleged comments made by her manager that he did not need a senior position in his team, that she was questioned about her travel and hotel stays, that her customers were taken away from her and she was on a higher salary that employees in standard sales manager roles. She further relies on the fact that the respondent did not directly replace her role as Senior Sales Manager and instead reorganised her duties by engaging a Business Development Manager in the North West and assigning some of her duties to Mr Bolger.

61. Neither of the claimant's line managers were called as witnesses by the respondent and the allegations by the claimant could not be put to the respondent. The allegations made by the claimant are general and lack any specificity as to who made the comments (she does not indicate if the manager referred to is Mr Bolger or her previous manager), what was said, the circumstances surrounding the alleged comments, where they were said or when they were said.

62. The claimant did not produce any documentary evidence to support her allegations and there is no evidence (either in documentary form, in the contents of the claimant's witness statement, or in her oral evidence) that she raised concerns regarding any alleged comments or customer removal. The claimant did not raise any concerns regarding the alleged comments in the disciplinary investigation, disciplinary meeting or appeal. There was no evidence of any discussions regarding redundancy internally.

63. The claimant confirmed in her witness statement, that the Business Development Manager was engaged to carry out the same function in the same geographical area as the claimant.

64. On the balance of probabilities I find that the reason for the claimant's dismissal was misconduct. The claimant admitted misconduct in the investigation and disciplinary hearings. The claimant has not produced evidence, other than general unsupported allegations, that casts sufficient doubt on the respondent's fair reason for dismissal.

<u>Did the respondent have a genuine belief in the claimant's misconduct?</u>

65. The respondent alleged that the claimant's actions amounted to gross misconduct. Whilst I do not, at this stage, need to make findings as to whether the claimant's misconduct did or did not amount to gross misconduct, in this case I do need to consider whether the claimant's conduct was capable of amounting to gross misconduct.

66. In the words of HHJ Hands at para. 111 of **Sandwell** "*Gross misconduct justifying dismissal must amount to a repudiation of the contract of employment by the employee…So the conduct must be a deliberate and wilful contradiction of the contractual terms.*

67. It is alleged that all three of the allegations against the claimant, individually amount to gross misconduct. The claimant admitted the allegations against her, albeit, providing mitigation for her actions.

68. Mrs Sturton was clear in her evidence that the allegations against the claimant amounted to gross misconduct under the respondent's disciplinary procedures. She considered that the claimant's actions were dishonest, serious and could have brought the reputation of the respondent into disrepute. The claimant was a senior manager in the organisation and had responsibility for a junior team member, requiring the claimant to set an example and follow company procedures.

69. Mr Bolger, Mrs Sturton and Mr Cassin genuinely believed that the use of the claimant's mum's blue badge, when she was not with the claimant, was a

criminal offence, which was carried out during company duties, for which the claimant could have been fined. The claimant accepted that she knew she should not use it, that she could be fined and she took the risk anyway.

70. Further, Mrs Sturton gave oral evidence that when reaching a conclusion regarding the provision of seafood, she was concerned that the claimant had not considered that seafood is a high-risk product and that, without traceability regarding source and transport, if a consumer became unwell, the respondent could not defend themselves, which would bring their reputation into serious disrepute and cause significant damage to the respondent.

71. I find that the allegations against the claimant could be capable of amounting to gross misconduct and that the respondent had a genuine belief in that misconduct. The allegations are stated to be gross misconduct under the respondent's disciplinary policy, were admitted by the claimant and the respondent considered they could have had serious consequences for the respondent and the public. The respondent believed the level of diary mismanagement by the claimant, the acceptance that she did not accurately record her business mileage, the admission that she knew she should not use her mum's blue badge and the serious consequences of her actions regarding the seafood, was dishonest and deliberate wrongdoing.

Was that belief held on reasonable grounds and after carrying out a reasonable investigation?

72. The claimant admitted to diary mismanagement and making an expenses claim for mileage on an occasion that she worked from home, accepted she used her mum's blue badge when she should not have done and admitted using an unauthorised supplier to purchase seafood and transported it in her car in circumstances where it was not monitored or tracked.

73. Mrs Sturton and Mr Cassin were clear that the claimant's admission was a significant factor in concluding that the claimant was guilty of gross misconduct. Despite that admission, Mrs Sturton and Mr Cassin took into consideration the claimant's explanations for her actions.

74. Mrs Sturton investigated the claimant's assertion that it was acceptable to transport produce in her car by speaking to Mr Bolger. Mr Bolger confirmed this was not acceptable practice.

75. The claimant had received annual training on the respondent's code of conduct, which included training on the procedures in relation to use of authorised suppliers and the transport and monitoring of produce. The claimant admitted that she was aware of the requirements for transport of high risk food because of her previous role and background working with seafood. The claimant asserted that she knew what the temperature of the seafood was when she collected it and when she delivered it. However, she was not able to explain how she knew the temperature. This appeared to be based on an assumption that the temperature would not change in the 5-10 minutes in which she says the fish was in her car and she knew the temperature when she left the seller. She accepted that she did not take or record the temperature of the seafood.

76. I find it was reasonable for the respondent to rely on the claimant's admission and did take steps to consider whether that admission was sufficient for them

to conclude that there had been gross misconduct. I find it was reasonable for them to hold a genuine belief in the claimant's misconduct in such circumstances.

77. Further, despite the admissions, steps were taken to investigate the information provided by the claimant as an explanation for her actions. I find it was reasonable for Mrs Sturton not to further investigate the claimant's whereabouts by telephoning customers and the hotel because there was no dispute that the claimant had made the visits. The allegation was that she had made false expenses claims because of her diary mismanagement, which was admitted. The respondent did not find that she had not made visits to her customers, except on 26th March, which was admitted. The respondent's investigation was reasonable.

Did the respondent act in a procedurally fair manner?

78. The claimant was invited to two investigation meetings. She was given an opportunity to respond to the allegations. It was information that was volunteered to the respondent in the investigation meetings that led to the second two disciplinary allegations.

79. The claimant was informed of the respondent's decision that there was a disciplinary case to answer. The claimant was invited to a disciplinary meeting in writing and was provided with reasonable notice of the meeting. The meeting was rearranged at the claimant's request due to ill health. The claimant was provided with the evidence that would be referred to in advance, informed of her right to be accompanied to the meeting and informed that one possible outcome of the hearing could be dismissal for gross misconduct.

80. The claimant attended a disciplinary hearing at which she was given the opportunity to respond to the allegations. Following the meeting she was given the opportunity to submit any additional evidence she wished to rely on; which she did. That evidence was taken into account alongside that provided and discussed at the disciplinary hearing.

81. The decision to dismiss the claimant was communicated to her in a meeting and was confirmed in writing. The written confirmation informed her of the sanction, the reasons for the sanction and that she had a right to appeal against the decision.

82. The claimant appealed the decision and was invited to attend an appeal meeting. The meeting was rearranged at the claimant's request. She was given written notice of the hearing both by email and by letter and the notice given was reasonable.

83. The claimant was attended an appeal meeting at which she was given the opportunity to outline her grounds of appeal. Those grounds were taken into consideration by Mr Cassin.

84. The claimant attended an appeal outcome meeting at which she was informed of the decision to uphold the dismissal. That decision as confirmed in writing to the claimant with an explanation of the reason for the decision.

85. On that basis, I find that the respondent acted in a procedurally fair manner,

both by complying with its own disciplinary procedure and the ACAS Code of Practice on Disciplinary and Grievance Procedures.

Was dismissal within a range of reasonable responses?

86. I must determine whether, in the particular circumstances of this case, the decision to dismiss the claimant fell within the band of reasonable responses which a reasonable employer might have adopted. In doing so, I must not substitute the tribunal's decision for that of the employer.

87. The allegations against the claimant were examples of gross misconduct under the respondent's disciplinary policy. The disciplinary policy states that the respondent may dismiss an employee where it is reasonably believed that the employee has committed an act of gross misconduct.

88. Given the findings above, it was reasonable for the respondent to believe that the claimant was guilty of gross misconduct.

89. The claimant was a senior manager in the respondent's organisation with responsibility for a junior team member. The claimant was aware that her Outlook diary was inaccurate but relied on it to make expenses claims in any event. She admitted making mileage expense claims that were not accurate and, on one occasion, claimed for a journey that had not occurred.

90. The claimant admitted that she knew she should not use her mum's blue badge to park when her mum was not with her and admitted that she had used it whilst on company business on one or two occasions. She accepted she did this when she did not have the money for parking or because it was easier than using the parking app. The respondent genuinely believed that it was a criminal offence to use the blue badge in this way and the claimant accepted that she would be fined £1000 if caught.

91. In relation to the third allegation, the respondent had strict processes in place for sourcing and transporting food, especially high risk products because of the requirement to trace all food for the Foods Standard Agency and for the benefit of customers and consumers if anyone became unwell. The respondent had a genuine and reasonable belief that the consequences for the respondent business if they were found not to be properly tracing food sources and transport were serious both in respect of reputation and compliance with food safety laws.

92. The respondent took into account the claimant's length of service and the mitigation explanations provided. The claimant accepted in oral evidence that, if an employee were found to be guilty of the offences that were alleged, an employer could dismiss for gross misconduct.

93. I find that the respondent's decision to dismiss the claimant for gross misconduct was within a range of reasonable responses open to an employer in the circumstances. The respondent believed her actions amounted to gross misconduct and she admitted her wrongdoing.

94. On that basis the claimant's claim for unfair dismissal is not well founded and is dismissed.

Approved by:

Employment Judge Edwards

30th January 2026

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE

Notes

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at *https://www.gov.uk/employment-tribunal-decisions* shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/