EMPLOYMENT TRIBUNALS

Claimant	**Respondent**
Mr M Teal	Nestle Purina UK Manufacturing Operations Limited

Heard at: Norwich (CVP) **On:** 17-19 February 2026

Before: Employment Judge S Moore (sitting alone)

Appearances
For the Claimant: In person
For the Respondent: Mr B Jangra, counsel

JUDGMENT

The claim for unfair dismissal succeeds.

REASONS

Introduction

1. This is a claim for unfair dismissal.
2. The Claimant was employed as a Technical Operator between 1 February 2006 and 12 November 2024. He was dismissed for gross misconduct.
3. I heard evidence from the Claimant, and for the Respondent from Ms D Dolska (DD), Production Manager, and Mr M Arif (MA), Functional Head of Quality, and Mr G McInerney (GI), Factory Manager. I was also referred to an agreed bundle of documents on the basis of which evidence I make the following findings of fact.

Facts

4. On 3 October 2024, an employee, KR, reported to DD, the Claimant's line manager, that the Claimant had left his shift approximately ten minutes early. DD subsequently challenged the Claimant about this, telling him that KR had been the one to inform her about it.

5. On 6 October 2024 KR sent an email to Thomas Doyle (TD) and Emma Hardy of Human Resources, saying he had been on holiday for the two subsequent night shifts but that on his return he saw that the Claimant had posted on Instagram what KR described as a "public threat against myself". His email attached the posts he had seen and concluded by saying, "he is using very threatening language, and I am not sure what I should be expecting when I come back to work on Thursday? After speaking with [DD] we both agreed we should be reporting this so it can be investigated."
6. Although it appears that KR had spoken to DD prior to sending that email, DD could remember nothing of that conversation.
7. The posts had been posted on the Claimant's Instagram account, which was in the name of "micky.england". The first post was a crossword puzzle with the words "you" and "pussy" intersecting at right angles at the letter "u", with the caption "You know who you are". The second post was a photograph of a snake with the caption, "Let me first say I didn't take this picture. It reminds me of someone who follows me on Instagram even though I don't follow him. I'm sure he'll realise it's meant for him." Underneath the first post someone had commented "I'm intrigued", to which the Claimant had replied, "just a prick from work who's been off. It's just a heads up for what's coming when he's back". Underneath that reply somebody else had commented saying "the shortlist" and then giving a list of five names which included that of KR.
8. On 10 October 2024 DD met the Claimant at the front gate as he arrived for work and informed him that a fellow employee had reported threatening behaviour and she needed to ask him some questions. A meeting then took place at which TD was the note-taker. In that meeting the Claimant didn't deny he had uploaded the posts but said his comments hadn't named anyone and he didn't know who they were aimed at. DD then suspended the Claimant, and his suspension was confirmed by letter of the same date.
9. On 18 October 2024 DD conducted an investigatory meeting with the Claimant. The Claimant's trade union representative was present and the notetaker was again TD.
10. At the meeting the Claimant read out a written statement in which he apologized to KR for any distress caused and said "he had misinterpreted the literature about the company policy concerning social media", thinking it didn't apply because his Instagram account was not in his real name, his work history only mentioned the Royal Air Force, and he had never posted or commented on anything about the Respondent. He also said that over the past 12 months he had had reason to speak to the Respondent's mental health representative on a number of occasions and that he was having private counselling sessions of which DD was aware.
11. In the meeting the Claimant admitted that the comment "prick from work" related to KR. When asked about what was meant by the phrase "what's coming to him" he said he meant he may call KR a snake or pussy when he saw him, but there was no risk of violence. The notes record him saying that as he hadn't mentioned the Respondent or named anyone, he "didn't realise what he was doing". In his oral evidence the Claimant explained that what he meant by the phrase he "didn't realise what he was doing" was that he didn't realise

that he was breaching the Respondent's policies, and that because he hadn't mentioned the Respondent or named KR, he didn't realise his actions could fall within the policies. The notes of the investigatory meeting record the Claimant apologising again if he had caused distress.

12. DD decided that since the Claimant had admitted uploading the posts and that they were aimed at KR, and since, in her view, the posts were clearly threatening, there was no need to interview KR, and the matter should proceed to a disciplinary hearing.

13. On 21 October 2024 MA wrote to the Claimant inviting him to a disciplinary hearing on 29 October 2024, to respond to the allegation of breaching one or more the following policies:

    - Disciplinary Policy
    - Social Media Policy
    - Discrimination, Violence and Harassment at Work Policy

14. The disciplinary hearing in fact took place on 30 October 2024.

15. The Claimant had prepared another statement, at the beginning and end of which he apologised again for his actions which he described as an "emotional outburst". He referred again to the fact that during the previous year he had telephoned the Respondent's help line on three occasions in respect of his mental health and was having private counselling.

16. In the hearing, the Claimant said the comment "what's coming to him" didn't mean anything like violence, and he knew and liked KR and had bought him a present for his new baby. He further said that in the mid-1990's he was told by a psychiatrist that he was suffering from PTSD and spoke about the current issues with his mental health. In that latter respect, TD suggested it would be helpful if the Claimant could send evidence of his PTSD diagnosis.

17. On 5 and 7 November 2024, the Claimant sent emails saying he was still waiting for the Norfolk and Suffolk Foundation Trust to process his application for his medical records but enclosed an email from a Mr Colin Aris, psychotherapeutic counsellor, who said he had seen the Claimant a number of times since the start of 2024.

18. On 12 November 2024 MA sent the Claimant an outcome letter, informing him that he was being dismissed for gross misconduct.

19. MA referred to the following extracts from the Respondent's policies:

    "The Social Media Policy, which was recently re-issued to all employees in Wisbech states that employees "must not do anything that could be considered discrimination, bullying or harassment of any individual, for example by…using social media to bully…"

    "The Discrimination Violence and Harassment at Work guidance notes that "Violence and Harassment – refers to any act(s) or threat(s), in which an employee displays unacceptable behaviour that aims to cause, or results in physical, psychological, sexual or financial harm to others."

"The Disciplinary Policy lists examples of potential Gross Misconduct which include "abusive or threatening behaviour" and "Bringing the Company or any individual employed within it into serious disrepute through any posting on social media."

20. MA concluded that KR had viewed the posts as threatening and he (MA) had formed the view they were intended to be threatening. Further the Claimant had not provided medical confirmation he had been diagnosed with PTSD and in any event, MA was not convinced the Claimant's mental health issues could be the trigger for what had happened. The Respondent's policies "were clear in expressing a zero tolerance to bullying and harassment and threat of violence including such threats being made on social media" and MA therefore concluded the Claimant's actions represented an act of gross misconduct warranting summary dismissal.

21. By email of 18 November 2024 the Claimant appealed his dismissal.

22. The appeal was heard by JM, but not until 16 January 2025, almost two months later. The reasons for this were said to be that JM was out of the country on work related business, then away on annual leave and then because of the festive period.

23. The Claimant again provided a written statement. He again referred to his mental health but said nobody throughout the process had enquired about the nature of his problems (of which he then gave some personal details). Further, that there was no reason for either KR or the Respondent to believe he was threatening KR with violence because he had never been violent or threatened anyone with violence in the 18 years he had worked for the Respondent.

24. The Claimant also referred to previous incidents during his employment when he said he hadn't had management support and alleged that previous communications with TD made him think that TD hadn't been impartial. Further the Claimant said TD's lack of impartiality was revealed by the fact he hadn't recorded in the notes of the hearing an apology that he had made for the fact that English wasn't MA's first language.

25. After the appeal hearing, JM interviewed KR and TD.

26. KR was asked about his relationship with the Claimant prior to the incident in October 2024 and he said:

    "Good. Always got on. He is a bit of a character, sometimes doesn't like to be challenged. Once I asked him to move from an electric/disabled parking bay and he didn't like me challenging him. "You're not my manager" was his response."

27. KR was asked about the Claimant's demeanor on that occasion and he said:

    "Not aggressive but didn't like me challenging him."

28. KR was then asked about the Instagram posts and said:

    "I was just flicking and saw the posts and thought "oh" then reported it to HR as I wasn't sure what it might mean when I came back to work."

29. He was then asked how the posts had made him feel and he said:

"A bit off and on edge. It did play on my mind what might happen, not knowing if he was going to do anything."

30. TD was asked about his previous email exchange with the Claimant, and he denied that he had formed any bias against the Claimant. As regards the complaint that some dialogue had been omitted from the notes of the disciplinary meeting, TD accepted that MA had stumbled when asking a question and he, TD, had stepped in to explain what MA was asking the Claimant and that English was not MA's first language. TD said this hadn't had any impact on the outcome of the hearing and he had subsequently included the exchange as an addendum to the notes.

31. By letter of 4 March 2025 JM dismissed the Claimant's appeal.

Conclusions

32. In this case the reason relied on for dismissal is conduct, which is a potentially fair reason for dismissal (s.98(2)(b) Employment Rights Act 1996 (ERA)).

33. The fairness of the dismissal therefore depends on whether, in the circumstances, the Respondent acted reasonably or unreasonably in treated it as a sufficient reason for dismissing the Claimant (s.98(4)).

34. In the context of a dismissal for gross misconduct, assessment of the fairness of the dismissal requires the Tribunal to first ask whether the employer had a genuine belief in the employee's guilt and if so whether the employer had reasonable grounds for that belief, having carried out such an investigation as was reasonable in the circumstances.

35. The Respondent plainly had both a genuine and reasonable belief that the Claimant was responsible for the conduct at issue - namely posting the images and comments in question on Instagram - because the Claimant admitted to it.

36. I also accept that the Respondent genuinely believed that the Claimant's conduct amounted to gross misconduct.

37. However, the question of whether that latter belief - that the Claimant's conduct amounted to gross misconduct - was based on reasonable grounds is a more difficult one.

38. The first point is that (before his suspension) the Claimant plainly did not realise that posting what he did on his Instagram account could amount to gross misconduct and lead to his dismissal. Although his defence to the allegations was wide ranging, referring both to his mental health and a number of historic grievances with KR, TD and other managers, the very first thing he said in the first of his statements (written for the purposes of the investigation meeting) was that he hadn't understood that the Respondent's policies applied to his private social media posts which didn't mention his employment. A point he made again in the investigatory meeting itself.

39. I consider the Claimant's confusion on this point was entirely justified because it is not at all clear to me that what he was being disciplined for did in fact fall within the scope of those policies.

40. Turning to the specific extracts of the policies relied on by MA, it is true that the Disciplinary Policy lists examples of potential "Gross Misconduct" as including "abusive or threatening behaviour" and "Bringing the Company or any individual employed within it into serious disrepute through any posting on social media."

41. However, "Gross Misconduct" is specifically defined within the policy as "unacceptable or improper behaviour *within the workplace* that is usually severe in nature" (my italics).

42. Further, even if it could be said that the example of "Bringing the Company or any individual employed within it into serious disrepute through any posting on social media", expressly extends or deviates from that definition, I do not consider the Respondent could reasonably conclude that the Claimant's posts had brought the company or any individual into serious disrepute.

43. Bringing into disrepute means damaging a reputation or publicly shaming and serious means doing so in a substantial way.

44. The Claimant's Instagram account was a private one and not even in his own name. He nowhere mentions the Respondent or the nature of his employment, and he does not name KR. It is true that KR's name is one of five names suggested by somebody else on the thread, but the Claimant makes no response to that suggestion so that KR is no more brought into disrepute than the other suggested names. The only person who knows who the post was aimed at was KR himself. In any event, while the posts were undeniably unpleasant, I do not consider that simple name calling meets the threshold of bringing somebody into "serious disrepute", particularly since the Claimant's account had only 74 followers at the time and the posts themselves appear to have attracted very little interest, generating only one "like" and the two comments set out above before they were taken down.

45. As regards the extract of the Social Media Policy, relied on by MA, the passage he quotes in fact comes under the heading of "Use of Social and Digital Media *at Work*" (my italics).

46. The policy has a separate heading of "Social and Digital Media in Your Personal Life", under which it is stated: "The Company recognizes that employees use social and digital media in their personal lives." And then provides a number of "*hints and tips* to ensure responsible use of social media" (my italics).

47. Moreover, under the heading "Breaches of this Policy" it is stated:

    "You may be required to remove any social media content that we consider to constitute a breach of this guidance. Failure to comply with such a request or breach of this policy may result in disciplinary action."

48. That statement implies that the Respondent's primary response to inappropriate social media content is to require the employee to remove that content. Further, while it then goes on to state that failure to comply with such a request or breach of the policy may result in disciplinary action, that simply takes the reader back to the Disciplinary Policy and the definition and examples of "Gross Misconduct" set out within that policy.

49. The third policy relied upon by MA was the "The Discrimination Violence and Harassment at Work Guidance." However, the very title of the policy indicates that this is a policy which is intended to apply in the workplace.

50. Further, that interpretation is strongly reinforced by the first section in the policy headed "Key Principles" which provides:

    "We are committed to providing an environment where everyone…is treated with respect and dignity and where there is zero tolerance for any acts of discrimination, violence and/or harassment. Our intent is to ensure that working relationships are respectful and professional at all times. As such we have chosen to extend this commitment to the following situations even though they do not normally count as work:

    - Employees travelling together during a commute to and from work;
    - Employees out on work social activities".

51. As Mr Teal pointed out in his cross-examination of the Respondent's witnesses, the clear implication of expressly extending the policy to those two non-workplace situations is that the policy doesn't apply to other non-workplace situations.

52. Mr Jangra argued that the Claimant's conduct fell within the scope of the above policies because there was a sufficient connection with the workplace in that the Claimant was making threats to KR as regards what would happen when he returned to work. However, in my judgment the policies simply do not cover this situation. There may be all sorts of occasions when employees have disputes with each other outside of work, and as result of what is said or done one employee is anxious as to how another will treat him in the workplace, but on their face (and save for the possible exception of social media posts that bring the company or an employee into serious disrepute) the Respondent's policies, - understandably in my view - appear to seek to discipline employees only for what happens in the workplace (or on a work commute or work social activity) and not what is said or done outside it.

53. Mr Jangra also argued that it was reasonable of the Respondent to interpret the policies as applying to the Claimant's conduct because of the potential threat of violence to KR and its duty of care towards him.

54. First, however, I do not consider the Respondent could reasonably have assumed that the Claimant was threatening KR with violence. The images posted by the Claimant were not violent ones and his comments do not mention or imply violence. The Claimant had been employed by the Respondent for 18 years and he had no history of being violent or aggressive. Further, when KR was finally interviewed, which unfortunately did not happen until after the appeal hearing, it became apparent that he generally had a good relationship with the Claimant and while he said the Claimant did not like being challenged did not suggest the Claimant had ever been violent or aggressive towards him when challenged.

55. Secondly, there were plainly other ways the Respondent could have fulfilled its duty of care to KR, such as by speaking to the Claimant about the posts and

requiring him to apologise to and reassure KR, which it appears the Claimant was very happy to do.

56. Accordingly, in the light of the above, I consider the Claimant could not reasonably have been expected to know that his Instagram posts could amount to gross misconduct and put his job at risk and/or that the Respondent would interpret its policies so broadly as to regard his conduct as falling within their scope and amounting to gross misconduct. It follows that in my judgment the Respondent's belief that the Claimant's actions amounted to gross misconduct was not based on a fair and/or reasonable interpretation of its policies and was therefore not based on reasonable grounds.

57. It follows from this that I consider the Respondent acted unreasonably in treating the Claimant's conduct as a sufficient reason for dismissing him and the claim for unfair dismissal succeeds.

58. I turn now to the question of contribution.

59. Section 122(2) ERA provides that "where the Tribunal considers that any conduct of the complainant before the dismissal…was such that it would be just and equitable to reduce…the amount of the basic award to any extent, the Tribunal shall reduce…that amount accordingly".

60. Section 123(6) ERA provides that "where the Tribunal finds that the dismissal was caused or contributed to by any action of the complainant, it shall reduce the amount of the compensatory award by such proportion as it considers just and equitable having regard to that finding".

61. As regards the compensatory award, I am satisfied that the Instagram posts which led to the Claimant's dismissal amounted to blameworthy conduct on his part; the posts were plainly unpleasant and likely, if not intended, to cause KR some distress and anxiety. Section 123(6) ERA therefore requires me to reduce the amount of the compensatory award by such proportion as I consider just and equitable.

62. I find it is just and equitable to reduce the Claimant's compensatory award by 25%. I have reached that conclusion because while, as I have stated above, the Claimant's posts were unpleasant and likely, if not intended, to cause KR some distress and anxiety, I do not consider his conduct amounted to misconduct within the scope of the Respondent's policies and he could not reasonably have known that the Respondent would treat it as such. Further I consider it highly likely that if the Respondent had approached the matter in a different way the issue could have been resolved without KR needing to feel concerned for his safety or the Claimant being dismissed.

63. As regards s.122(2) ERA, I am satisfied that it would also be just and equitable to reduce the basic award by 25% for the same reasons as above.

Approved By:

Employment Judge S Moore
Date:

19 February 2026

Sent to the parties on:
5 March 2026

For the Tribunal:
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