



EMPLOYMENT TRIBUNALS

Claimant: Mr C Edmondson

Respondent: Energas Limited

Heard at: Liverpool Employment Tribunal

On: 19-22 January 2026

Before: Employment Judge Barker
Mr D Williamson
Mr R Cunningham

Appearances

For the claimant: self-represented

For the respondent: Mr Levay, counsel

JUDGMENT having been given to the parties at the conclusion of the hearing on 22 January 2026, and sent to the parties on 27 February 2026, and written reasons having been requested on 28 January 2026 by the claimant in accordance with Rule 60(4) of the Employment Tribunals Procedure Rules 2024, the following reasons are provided

REASONS

Preliminary matters and issues for the Tribunal to decide

1. Mr Edmondson was employed by the respondent as an HGV labourer on a temporary contract in 2016 and then moved to a permanent contract in 2017. He was dismissed by reason of gross misconduct at a meeting on 10 November 2023.
2. The claimant was involved in ACAS Early Conciliation with the respondent between 15 January and 26 February 2024. His claim form was presented to the Tribunal on 24 March 2024. There were then three case management preliminary hearings in these proceedings.

3. The claimant's particulars of claim were long and contained a lot of information. The claimant's particulars of claim were very similar to his grounds of appeal to the respondent following his dismissal. These refer to alleged failures by the respondent to take into account issues the claimant had with his mental health, and his personal circumstances, as well as alleged failures of the respondent relating to health and safety matters.
4. There have been 3 previous hearings for case management purposes. Both Employment Judge Holmes and Employment Judge Fearon ordered the claimant to set out what issues he wanted the Tribunal to take into account in deciding whether his dismissal was fair or unfair.
5. He was asked to do this on 14 January 2025, by EJ Holmes, on 5 August 2025 by EJ Fearon, and having failed to do so, EJ Holt on 10 October 2025 ordered that it was not in the interests of justice to allow the claimant any more opportunities to make amendments to his claim. EJ Holt identified that the claimant had been given 8 separate opportunities to identify what his claim was about and he was not permitted any more opportunities.
6. EJ Holt and EJ Holmes both have indicated, having discussed this with the claimant, what they thought his case was. The claimant clarified his case during this hearing. He did not make any amendment applications before us. Essentially, the claimant accepts that the main reason for his dismissal was misconduct, that being three collisions in his vehicle, but that also the respondent wanted to dismiss him because he made complaints and raised issues about health and safety, such that he was a "*thorn in the side*" of the respondent.
7. His witness statement lists a number of matters that the claimant alleges breached health and safety and four of these are matters he complained to the respondent about which he says resulted in the respondent wanting to take the opportunity to get rid of him. The Tribunal told the claimant that we could not look into whether the respondent did breach health and safety in relation to these incidents. We do not have jurisdiction to do this. This would be a matter for the Health and Safety Executive. Also, the claim is not for whistleblowing or automatically unfair dismissal for health and safety matters, or disability discrimination but we did look at the impact there was of the claimant having made these complaints on his dismissal.
8. As for the driving offences themselves, the claimant says that these were not fairly dealt with in that:
 - a. His issues with his mental health were not taken into account in mitigation by the respondent;

- b. He did not receive enough support from the respondent's management with his mental health;
 - c. He did not think his third accident should be said to be a serious crash as it was at slow speed, on private land, and no one was injured;
 - d. The respondent was unclear in explaining to the claimant how the first accident was taken into account in relation to the invitation to the disciplinary hearing for the third accident on 10 November 2023;
 - e. He was told he would be dealt with leniently in relation to the first accident and that this first accident was not his fault;
 - f. The respondent could have redeployed him, even on a temporary basis comma to the job of yard operative, a lower paid job which was being done by an agency worker at the time of his dismissal.
9. The Tribunal had the benefit of a witness statement for the claimant and witness statements for Mr Morgan, the claimant's line manager, Mr Tranmer the dismissing officer and Mr Weston, the respondent's compliance manager and appeals officer. All four witnesses were honest and straightforward in their evidence, which was of assistance to the Tribunal.
10. The Tribunal had a bundle of documents which was 317 pages long and we watched 7 videos. These were two videos for each of the three accidents taken from the claimant's HGV's on-board cameras and one video made by the claimant of access difficulties he had delivering to a customer's site in Birkenhead.
11. The respondent's counsel provided a written skeleton argument on day one and then after the evidence had concluded, he made a short oral closing statement on day four of the hearing. The claimant was given the opportunity to ask any questions about what the respondent had said and then made his own oral closing statement. The tribunal deliberated and the parties were provided with an oral decision at 3pm on the fourth day off the hearing. These written reasons are the reasons that were given to the parties on that day.

The Facts – agreed facts and our findings of fact

12. The following facts were agreed by the parties and are recorded here to provide context for the decisions that follow.
13. The claimant's job at the respondent was to transport by HGV and deliver acetylene gas cylinders from the respondent to the respondent's customers. The depot in Liverpool where the claimant worked from was very small, with only two drivers, a part-time yard operative, a supervisor and a customer services agent.

14. Acetylene gas cylinders are highly flammable and therefore highly dangerous to transport. The claimant had raised several issues concerning health and safety with the respondent over the course of his employment. The claimant complained to the respondent about a lack of individual risk assessments for his deliveries. The respondent told the Tribunal that, as they served a large number of smaller customers as opposed to a smaller number of bigger companies, drivers were expected to carry out dynamic risk assessments for each delivery and if the drivers considered the deliveries to be unsafe, they were supposed to fill in a “Take 5” form to notify the respondent of any risks.
15. The claimant says that his manager, Mr Newton, refused to refer his Take 5 forms upwards to management or back to the customers and so he stopped putting them in.
16. The claimant has provided the Tribunal with information about four specific complaints he made to the respondent between June 2021 and March 2023. The Tribunal has considered the impact each of these complaints may have had on the respondent’s decision to dismiss him.
17. The claimant says that Mr Newton, and Mr Newton’s manager Mr Mulvaney, referred to the claimant as “*militant*”. It was put to the claimant that neither of these people made the decision to discipline or dismiss him. However, he asks the Tribunal to speculate that they must have at least spoken to the dismissing officer Mr Tranmer and possibly to Mr Morgan as they are close colleagues, but there was no direct evidence of this in the bundle.
18. The claimant also accepts that he made no formal complaints about any of these health and safety matters, did not “whistleblow” or provide any of this information to the Health and Safety Executive.
19. On 2 March 2023 there was a collision between the claimant’s vehicle and a driver in a car while they were merging into one lane on The Strand in Liverpool city centre. The claimant does not accept that he was at fault. The video footage seen by the Tribunal shows the claimant’s lorry being aggressively undertaken by the car. However, given the size of the claimant’s lorry, which was an HGV, and the load of potentially explosive gas cylinders, the claimant does not back off from a confrontation with the car. Instead, he attempts to block the car from pulling into the queue of traffic in front of him. Neither vehicle gave way to the other, with the result that the claimant’s lorry made contact with the car, which caused damage to it and the car.

20. The parties' insurers have contested liability, and the claimant told the Tribunal that the issue is going to a trial where he will be asked to give evidence. He therefore has reached the conclusion that his driving was not obviously at fault. As the insurers have not paid out, his reasoning is that the respondent ought not to have considered this to be his fault in that, in his view, insurers have the final say in the matter, not the respondent.
21. We do not agree with the claimant's analysis of this situation. Whether the insurers concede or contest liability is a separate matter from the issue of the claimant's conduct at work or whether it is blameworthy. This is why the respondent's driver handbook deals with issues such as damage to the respondent's reputation, and not just fault, in the event of an accident.
22. The respondent's policy is for drivers to drive courteously and defensively. It is the respondent's case, which we accept, that in such a situation, the claimant should have let the aggressive driver go in front of him instead of trying to match her confrontational approach with his.
23. The respondent gave the claimant what they refer to as a "counselling card" which is the first stage in the respondent's disciplinary process. The respondent's approach at this stage in the disciplinary process is for someone in the claimant's situation to learn from it. The counselling card given to the claimant noted that he had plenty of time to apply his brakes and should have done so, so that the aggressive driver could pull in to the lane and the claimant would have avoided the confrontation as a result.
24. Courteous and defensive driving is, we accept, particularly important for the respondent's drivers because of the explosive nature of the cargo carried by them drivers and the potentially catastrophic impact of a collision, which the claimant acknowledges.
25. Also important however is the impact on the respondent's reputation as a safe and reliable transportation business. Given that the respondent's logo is clearly visible on the claimant's lorry, aggressive or discourteous driving can clearly be attributed to the respondent's organisation. The claimant has told us a number of times that the respondents themselves have breached health and safety regulations in relation to the transport of gas cylinders. However, the claimant is not providing such examples to show that he has been inconsistently treated. The examples were not of health and safety breaches in similar situations to his. The argument appears to be that because the respondent is not perfect, the claimant should also not have been dismissed for his mistakes. However, the respondent is entitled to require that the claimant conduct himself in

accordance with proper practice and procedure. If the respondent does not do so, that is a matter for the Health and Safety Executive.

26. We find that the respondent's actions in giving the claimant a counselling card were reasonable in all the circumstances and equivalent to a first stage warning as part of the respondent's disciplinary process. After this, the claimant had refresher training with a driving instructor and was given feedback, including the need to leave plenty of space between vehicles when driving in future.
27. The claimant had a second accident on 25 May 2023. The claimant was changing lanes on a multi-lane roundabout in Wrexham when he collided with a vehicle also changing lanes to the rear of him. The claimant was signed off sick by reason of stress, anxiety and depression from 14 June 2023. There were therefore delays in the investigation and disciplinary process until he returned from sick leave.
28. We do not consider that there were any elements of unfairness in the investigation or disciplinary process in relation to the second accident except that the claimant was only given 24 hours' notice of his disciplinary hearing, which was inadequate in the circumstances. The penalty that was imposed by the claimant was a formal written warning, which we consider to be fair in the circumstances.
29. The claimant was sent for an occupational health assessment to BUPA on 1 August 2023 and the report was written and provided to the respondent on 3 August 2023. The report recommended a phased four week return to work on the basis of 50% of hours in week 1, with a gradual increase in hours depending on the claimant's tolerance. The report made no more formal recommendations about how the increase in hours over the weeks would work.
30. The report is very careful not to mention the source of the claimant's anxiety. The report only mentions "*personal external stressors*". Nothing is mentioned about the nature, of the stresses what caused this and which family members were involved.
31. Despite this, the claimant refused for the report to be shared with the respondent. In a phone call with the respondents HR officer Ms Khatana on 16 August 2023, that the claimant covertly recorded, the claimant is adamant that the respondent should not share any part of the report. Ms Khatana recommended that, given the claimant's mental health circumstances that there should be no further contact by the respondent until 28 August and to avoid any unnecessary stress, the claimant should be the one to make the next contact

with either her or Mr Morgan, the claimant's line manager. The claimant agreed to do this.

32. The claimant submitted another sick note and returned to work on 25 September 2023. No contact was made by the claimant to Mr Morgan or Ms Khatana after the phone call of 16 August 2023.
33. When the claimant returned to work, Mr Morgan knew nothing of the return to work plan in the occupational health report, because the claimant had prohibited the respondent from sharing the report with him. We are of the view that it would have been possible for the respondent's HR department to have told Mr Morgan the outline of the return to work plan without sharing the content of the occupational health report with him.
34. However, the claimant himself could also have said something about the phased return to work. He had agreed to make the next contact and did not do so. When he arrived at work on 25 September, Mr Morgan was willing to agree to the phased return to work of 50% of full-time hours for the first week. There was therefore no resistance from Mr Morgan to this and therefore no reason for the claimant not to have made further requests for a phased return to work from Mr Morgan for after the end of the first week. The claimant in fact made no further comments about a phased return to work. Mr Morgan's evidence to the Tribunal was that the claimant had lighter duties in the second week. The claimant disagreed but had made no complaint about it at the time.
35. The claimant had driver assessment training on 11 October 2023.
36. He had a third accident on 1 November 2023, at which time he was back to his usual duties. This accident was a collision at low speed with a steel trestle on a customer site. The Tribunal has seen the video of the accident. The claimant fails to check the blind spot at the front of his vehicle. There were pedestrians visible in the video. Had there been pedestrians in the blind spot, the claimant would not have been able to see them. Fortunately, no pedestrians were injured. The collision caused damage to the radiator of the vehicle such that the vehicle could not be used.
37. The claimant was invited to an investigation meeting on 8 November 2023 and was given enough notice of this meeting, approximately 5 days. In the investigation meeting, which was conducted by Mr Morgan, reference was made to the accident in May with Mr Morgan referring to the claimant's accident as being the third this year. The claimant admitted fault. He told Mr Morgan that this was "*a really unlucky accident*" but that he was "*getting my life back on track and happier*".

38. On 9 November the claimant was invited to a disciplinary hearing with 24 hours' notice. We note that the respondent's policy provides a minimum of two days' notice. Our opinion is that two days' notice is still too short and 24 hours' notice is certainly not sufficient.
39. On 10 November the claimant submitted a mitigation document which was seen by Mr Tranmer in advance of the hearing the same day. In the mitigation document the claimant writes that he is feeling a lot happier since his return to work this was asked of him again in the disciplinary hearing by Mr Tranmer and the claimant said yes, he was a lot happier since his return to work.
40. In the invitation to the disciplinary hearing, the claimant was not warned that all three accidents would be taken into account. However, the claimant was warned that the hearing was something that could potentially result in his dismissal due to his conduct potentially being gross misconduct.
41. However, we note from the meeting minutes that the claimant did not appear to take the issue sufficiently seriously. He did not appear to consider the possibility that he may be dismissed. This affected his remorse, and his attitude. He made statements such as "*the facts are, no-one was injured*" and "*what is the driver's handbook?*" This reasonably led Mr Tranmer to question whether the claimant was taking responsibility for his actions, and for the accident, and whether he could be relied on to avoid similar incidents in future.
42. We find that Mr Tranmer conducted a fair hearing with the claimant. Mr Tranmer took a short adjournment, of approximately 30 minutes, to consider the decision. The claimant suggests that this short adjournment meant that he had prejudged the matter. We do not agree. Mr Tranmer told us that he had wanted to give the claimant a decision the same day so that he was not waiting to find out what would happen and that this was particularly important because of the claimant's reported stress levels at the time.
43. We find on the balance of probabilities, that had the claimant been more willing to accept responsibility, he would have been given a final written warning or a similar action short of dismissal. We find that Mr Tranmer did not want to dismiss him, but in the circumstances he reasonably reached the conclusion, based on the claimant's presentation at the hearing, that there was a genuine risk that if they retained the claimant as a driver, there would be a real risk of further accidents, and another collision could have potentially severe consequences. The matter was one of the claimant's conduct and not his capability, because it related to his attitude and him seemingly not taking responsibility.

44. Mr Tranmer told the claimant that although he could have dismissed him straight away without notice on account of his conduct, he wanted to “*soften the blow*” and although the claimant was not legally entitled to any notice money, he would be paid notice money. The claimant understood this to mean that he was entitled to 12 weeks’ pay. He says that Mr Tranmer told him it would be 12 weeks’ pay. In the end, he was paid 6 weeks’ pay which is his entitlement based on his length of service. The claimant complains about this, but as noted above he is not entitled to any notice pay in the circumstances and so we can make no award to him in respect of this matter. We understand that this was disappointing to the claimant, but we do not find that this was attributable to the actions of Mr Tranmer, who we find was trying act fairly towards the claimant.
45. The claimant was dismissed at the end of the disciplinary meeting. The letter confirming this, which was dated 13 November 2023, did not give him the right of appeal. This was a procedural failing by HR. Nevertheless, the claimant did appeal in a lengthy email dated 15 November 2023. He raised many grounds of appeal but in summary, those that are relevant to his dismissal were related firstly to his mental health, in that he provided to the respondent for the first time information that he had not previously allowed to be shared with them. Another ground of appeal was that the respondent had not supported him when they “knew” he was mentally ill. Another ground of appeal was that no-one had been injured in the third accident. The claimant asked for reinstatement to his job, and did not inform the respondent that he was not fit to drive.
46. The appeal hearing took place on 8 December 2023 and the claimant was given three days’ notice. We find that this notice was adequate. Mr Weston, the appeals officer, was careful and thoughtful, and by his own efforts and without HR’s assistance, we find that he cured the defects caused by HR at the disciplinary hearing stage. All the claimant’s grounds of appeal were considered by him and he gave the claimant an opportunity to discuss them at the hearing. Mr Weston then took 11 days to consider his reply and in a letter, he set out full reasons why he did not overturn Mr Tranmer’s decision to dismiss. The other issues in the appeal are not for the Tribunal to consider. The issue of suitable alternative employment, which the claimant did not raise in his appeal and in any event the respondent did not have to consider, was not a requirement for the respondent to consider because the claimant was dismissed for a breach of trust and confidence. The issue of a lack of injury in the third accident was dismissed by Mr Weston for the same reason that Mr Tranmer had dismissed this ground of mitigation in the dismissal hearing.
47. In relation to the issue of his mental health, whether the respondent supported him and whether it was a mitigating circumstance, we note that the claimant did not say prior to the appeal hearing that his mental health was incapacitating.

He had declared himself happy and fit for work at the meeting on 8 November and in his mitigation document of 10 November. He had an OH referral and the availability of the EAP scheme for counselling. He had prevented his line manager from knowing the contents of the OH report. As a driver of an HGV, he had a responsibility to monitor any unfitness for work, including by reason of mental health, and report the same to his line manager, which he did not. The respondent did not act unreasonably in relation to the claimant's mental health issues in the circumstances, in taking the decision to dismiss him.

The Law

48. It is well established law that determination of an unfair dismissal complaint is to be done, in the first instance, in accordance with section 98 of the Employment Rights Act 1996.
49. A respondent employer must show on the balance of probabilities that it had a fair reason for dismissal. In this the respondent's reason is that of misconduct.
50. Where the potentially fair reason given by the employer is misconduct, the Tribunal is to have regard to the guidance set down in the case of **British Home Stores v Burchell [1978] IRLR 379** which is:
 - a. Did the respondent have an honest belief that the claimant had committed an act of misconduct?
 - b. Did the respondent have reasonable grounds for holding that belief?
 - c. At the time that that belief was formed on those grounds, had the respondent carried out as much of an investigation as was reasonable in the circumstances?
51. Although the ACAS Code of Practice on Disciplinary and Grievance Procedures is not legally binding, the Tribunal must have regard to it when assessing both the substantive and procedural fairness of an employer's decision to dismiss. However, it is a well-established feature of the law of unfair dismissal that the investigation and procedure need only be within a range of reasonable actions. For example, the investigation need only be a reasonable one and need not be a forensic examination of all possible evidence. In addition, there is no requirement to give an employee notice that an investigation is being conducted.
52. Further requirements of the ACAS Code of Practice are that the employee must have enough information to understand the case against them and must be provided with a right of appeal.
53. The respondent must show that the reason to dismiss was within a range of reasonable responses that a respondent could have taken in that situation. There must be a fair investigation in all the circumstances, and the decision to dismiss must take into account equity and the substantive merits of the case.

54. In *Westminster City Council v Cabaj* 1996 ICR 960, CA, the Court of Appeal stated that although employers should follow the agreed procedures, a failure to do so would not necessarily mean that a dismissal is unfair. The question a Tribunal must decide in cases of unfair dismissal is not whether in all the circumstances the employer acted reasonably, but the narrower question under s.98(4) of whether the employer acted reasonably in treating the reason shown as a sufficient reason for dismissing the employee.
55. When assessing whether the employer adopted a reasonable procedure, Tribunals should use the range of reasonable responses test - *J Sainsbury plc v Hitt* 2003 ICR 111, CA; *Whitbread plc (t/a Whitbread Medway Inns) v Hall* 2001 ICR 699, CA.
56. The Tribunal is expressly cautioned against substituting its view for that of the respondent in reaching the decision to dismiss. The Tribunal must not decide the case on the basis of what it considers to be the correct action in the circumstances, but instead must decide whether the respondent's actions, including the decision to dismiss, were the actions of a reasonable employer in the circumstances.

Application of the law to the facts found

57. The claimant accepts that the potentially fair reason for his dismissal was his conduct. We find that the respondent's Mr Tranmer, when dismissing the claimant, had a genuine belief that the claimant had committed acts of misconduct due to the number of accidents that he had within a relatively short period of time, coupled with the claimant's lack of remorse and lack of responsibility in the disciplinary hearing. Mr Tranmer had reasonable grounds for holding that belief, and the respondent had carried out a reasonable investigation. The claimant admitted to the accidents which were the reason for the disciplinary process.
58. We find that dismissal was within the range of reasonable responses that an employer could have in this situation. Given the nature of the vehicle that the claimant was driving and the risk of serious consequences if there had been an accident, the respondent reasonably expected the claimant to take full responsibility for his actions, and he did not. It cannot be said that no reasonable employer would have dismissed the claimant in such circumstances.
59. We have nevertheless expressed concerns about the actions of the respondent's HR advisors during the dismissal process. Our concerns are as follows:
- a. HR should have been clearer in the invitation to the disciplinary hearing that all three accidents were going to be considered at the disciplinary hearing. This defect was not sufficiently serious in the circumstances to

change the fairness of the dismissal, and was cured in any event on appeal, but in another case it may have made a difference to the overall fairness of the dismissal.

- b. The disciplinary policy should not just specify two days' notice for a disciplinary hearing. There should be much more flexibility if circumstances require and certainly 24 hours' notice of a disciplinary hearing was not enough time. This was not sufficiently serious in the circumstances to change the fairness of the dismissal, and was cured in any event on appeal, but in another case it may have made a difference to the overall fairness of the dismissal.
- c. The confusion as to whether the claimant would receive 12 weeks or six weeks voluntary payment. Having given him the impression that he was going to get 12 weeks' money, there should have been more of an explanation given and possibly an apology from HR once that error was realised to clear up the misunderstanding.
- d. There should have been a right of appeal in the dismissal outcome letter sent on 13 November 2023. The claimant appealed anyway, but another employee may not have realised that they were able to.
- e. We were also concerned that there did not appear to have been a pack of key documents for the appeal put together for Mr Weston. It is good practice to put one of those together and then show the Tribunal what he was given, but that did not apparently happen.

60. However, we find that there was nevertheless a fair procedure on balance. As noted above, Mr Weston was diligent and careful did conduct a fair appeal which cured the previous defects in the process. He considered all the issues raised by the claimant. Furthermore, in the circumstances, given the seriousness of the misconduct and given the size and resources of the respondent overall it was a reasonable procedure. It does not need to be a perfect procedure or an ideal procedure, it only needs to be a reasonable procedure and, in the circumstances, this was. An employer is given more latitude the more serious the misconduct and the claimant's misconduct was rightly considered very serious by them.

61. The claimant has not demonstrated that there was an alternative, more credible reason for his dismissal, because he made complaints and raised issues about health and safety, he was a "*thorn in the side*" of the respondent, and they took the opportunity to dismiss him unfairly. We do not accept that this was what the respondent did.

62. The case fails and is dismissed. The claimant was fairly dismissed.

Approved by:

Employment Judge Barker

17 March 2026

Reasons sent to the parties on:

22 April 2026

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For the Tribunal:

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