



EMPLOYMENT TRIBUNALS

Claimant: Mr G Matthey

Respondent: Relltek Limited

Heard at: East London Hearing Centre

On: 18, 19, 20, 21 and 25, 26 and 27 November 2025 and deliberations
22 December 2025

Before: Employment Judge S Iman

Members: Mr O'Callaghan
Mr Webb

Representation

For the Claimant: Mr Lodi – Khan (Counsel)
For the Respondent: Mr Raj Pal (Croner)

JUDGMENT

The Claimant's claims for unfair dismissal, unlawful deduction of wages and wrongful dismissal fail and are dismissed.

REASONS

Background

1. The Respondent is an IT service company focusing on the sale of IT hardware. The Respondent describes itself as an IT life cycle services and consultancy; supplying IT equipment, decommissioning and refurbishing equipment, and providing IT services.
2. They are a small family business. They commenced trading in November 2017. The company initially started with a headcount of 5 and increased to 15 to 20. Ross Ellis was the CEO and co-Founder with his brother Richard Ellis.

3. The Claimant was employed by the Respondent as a Professional Services Director from the 01 February 2022 to the 08 May 2024. The Respondent's position is that the claimant was summarily dismissed for gross misconduct. The Claimant denies misconduct and claims that he was unfairly dismissed and that he is owed notice pay and expenses that have been withheld from him.
4. The Tribunal was aware of the close relationships within the company. The Claimant was close friends with Richard Ellis and Ross Ellis. Richard Ellis and the Claimant had known each other since they were 13 years old. Richard and Ross Ellis are brothers. The company's Finance and HR Manager, Laura Ellis, is married to Richard Ellis. Alex Wright and the Claimant were known to each other as it was the Claimant that introduced her to the company as Senior Account Manager.
5. The Claimant's role was that he was appointed as Director for the company. His primary responsibility was to create a wholly new Resourcing Division which would find organisations that needed IT contractors, then recruit those contractors to work for their new customers.
6. At the time of joining, the Claimant was self-employed in his own resourcing company called GOAT, which continued during his tenure with Relltek. The Respondent was aware of this. The Respondent stated that they considered that the Claimant could continue to run his own business and maintain existing contracts. The Respondent thought that bringing the Claimant into the company also presented an opportunity for cross-selling to its existing customers and business development across the wider team.
7. The Claimant's position was that GOAT was inactive and that it was only being used to service existing contracts. There was no dispute that the Claimant was an employee of Relltek.
8. The Claimant was on a basic salary of £60,000. His main income would be based on commission. During his employment he had several contracts of employment. He had initially been on a net commission payment model which was moved into a gross profit commission model. The Tribunal heard that the gross profit commission was more favourable to the Claimant rather than payments derived from net profit.
9. The final hearing took place on the 18, 19, 20, 21 and 25, 26 and 27 November 2025. The Tribunal heard evidence from the claimant and the following witnesses. Richard Ellis, Ross Ellis, Laura Ellis, Alex Wright, Gregory Matthey and Mr Richard Thomas. The Tribunal was grateful to Mr Richard Ellis for providing a further additional statement and being re-called to give evidence in order to assist the Tribunal. Further, Mr Richard Thomas also attended in person to assist the Tribunal, and the Tribunal was grateful for his evidence and the assistance he gave to the Tribunal. The Tribunal were helpfully provided with written submissions which we have taken into account.

Preliminary matters

10. The Tribunal were also informed during the course of the proceedings that Mr Matthey was feeling anxious. The Tribunal enquired as to whether any reasonable adjustments were required and were advised that they were not.

Late Evidence

11. The parties sought to adduce additional evidence both at the start and during the course of the hearing. The Claimant sought to adduce an additional supplementary bundle of evidence which was objected to by the Respondent. The Respondent's Counsel, in principle, did not object to the WhatsApp messages being submitted [on the proviso that full screen shots were provided] but did object to the witness statements that were being submitted on the basis that they were being submitted late, particularly in respect of Mr Thomas. It was not recognised that he was an expert witness and therefore his evidence was not relevant to the proceedings according to the Respondent.
12. The Claimant sought to call Mr Van Dyke and Mr Thomas as additional witnesses. After careful consideration, the tribunal concluded that it was in the interests of justice to admit the supplementary bundle and allow the additional witnesses to give evidence. The Respondent was able to cross-examine Mr Thomas and was able to make submissions to the tribunal in respect of what weight should be attached to his evidence. Further, in respect of Mr Van Dyke, his evidence included screenshots of WhatsApp messages related to conversations between himself and Mr Richard Ellis and as Mr Richard Ellis was giving evidence, he could quite properly respond to the evidence. Further, the tribunal noted that though Mr Matthey was represented today, he had prepared and had conducted his own case until just before the tribunal hearing. Therefore, as an unrepresented Claimant, we considered it in the interest of justice to allow the evidence in and considered it relevant to the issues that we had to determine.
13. Further, in respect of the supplementary statements that were sought to be admitted on behalf of the Respondent, namely supplementary witness statement of Alex Wright and supplementary witness statement of Laura Ellis. These were not objected to in principle by the Claimant's representative on the basis that the Claimant's documents were admitted. Though this was the position taken by the Claimant, the tribunal considered the matter carefully and noted that these were statements that were provided by witnesses that were already due to give evidence before the tribunal and were providing clarity on matters that were clearly relevant to the issues to be determined and therefore it was in the interest of justice to admit the statements into evidence. Accordingly, we admitted into evidence the supplementary documents provided by the parties at the start of the hearing.
14. Further, Mr Matthey sought disclosure of the video of the 10th of April meeting. This was provided by the Respondent and was admitted into evidence as it was clearly relevant to the issues before us. The Tribunal did not order, nor could it see how details of a settlement agreement with a third party would assist in its deliberations.
15. There was additional documentation provided by both parties during the course of the hearing as matters arose during the evidence of witnesses. There was extensive

documentation provided and the tribunal has done its best to provide a summary below. The evidence was admitted into proceedings as it was relevant to the issues to be determined. It was unfortunate that it had not been provided prior however, the parties were pragmatic in assisting the tribunal:

- i) Letter of suspension as requested by the Claimant.
- ii) Invitation to disciplinary meeting and relevant emails attached.
- iii) Internal email re: draft suspension letter sent 24 April 2024.
- iv) Email sent by Alex Wright to Laura Ellis, Richard Ellis, and Ross Ellis, on the 24 April 2024 at 16:08.
- v) Timing specifics of disclosed video material for the Tribunal.
- vi) Respondent agreement with the time stamps provided by the Claimant for video and provided comments.
- vii) Claimant email titled bundle pages and transcript clarification.
- viii) Audio recording disclosed by the Respondent in 2024, for the meeting that took place on the 10th April 2024.
- ix) Invoices [unpaid] relating to the issue of commission and email identifying them.
- x) Emails between Claimant and Respondent in respect of Q2 and Q4 commission and emails titled commission submission.
- xi) Several WhatsApp messages dated 29 July 2022.
- xii) Profit and Loss document relating to the issue of commission.
- xiii) WhatsApp messages between 12 April-24 April.
- xiv) WhatsApp message [one dated 27 January] Claimant submitted to demonstrate lack of management support and relevant to the 10 April meeting.
- xv) Transcript for the 10th of April 2024 '(Low Quality).pdf'. The sound quality from the video was not ideal and therefore the Tribunal advised that it should not be used as a standalone reference and it was not.
- xvi) Supplementary statements of Richard Ellis regarding the commission review document.
- xvii) Additional evidence re: commission review/calculations from Claimant in response to Richard Ellis' calculations.
- xviii) Laura Ellis, review the Q1 expenses.
- xix) Zip file contained invoices, additional costs documents etc.

Time Limits

16. Neither party addressed the Tribunal in respect of jurisdiction and time limits. The Claimant's dismissal occurred on 8 May 2024. ACAS received EC notification on 26 June 2024. Early Conciliation certificate was issued on 1 August 2024 (ACAS reference R200709/24/35). ET1 lodged on 29 August 2024. The Respondent's replied to the Tribunal indicating it was no longer pursuing the time limit argument on the 07 May 2026. The Claimant also wrote to the Tribunal explaining that the claim was not out of time, which is accepted. We considered that any events that occurred before dismissal were part of a series of events and therefore were appropriately before the Tribunal. For clarity, the Tribunal considered the sequence of events from December 2023 until the date of dismissal.

Findings of fact

17. The Tribunal made the following findings of facts.

Performance concerns

18. The Respondent was clear that it did not dismiss Mr Matthey on the basis of any performance concerns, but that nevertheless did have genuine concerns about the lack of revenue that was being generated by the Resourcing Division, which, they considered, had no prospect of improvement and had raised these with the Claimant. The Claimant stated that any concerns about revenue generation and performance were disingenuous and were part of the Respondent's conduct to create unnecessary pressure and stress to facilitate his exit and the closure of the resourcing division. This culminated in the imposition of impossible targets which were unreasonable and unfair and ultimately the allegations that he was dismissed for.

Were the performance concerns legitimate?

19. Having considered the oral evidence and the written evidence before us, the Tribunal were satisfied that the performance concerns raised by the Respondent were genuine. The Respondent and the Claimant were engaged in a series of meetings concerning the performance of the Resourcing Division, this is accepted by both the parties. These meetings occurred on 19 and 29 December 2023, 01 February 2024 and 02 and 10 April 2024 as a combination of in-person, online video calls as well as audio calls. The Tribunal has the benefit of the transcripts of some of these meetings and alongside these, has viewed the CCTV and transcripts of the meeting of the 10 April 2024.
20. We found the evidence of Mr Richard Ellis and Mr Ross Ellis compelling in that the resource division was not generating the expected revenue and despite the Claimant taking trips to the US and Singapore, there was no generation of any further business. There was no *pipeline of candidates*; no new prospects, no clients, no purchase orders, no contracts. Existing contracts were coming to an end and there were no indications for renewal. With one main contract, there were issues that had been raised in respect of overpayment, and their expected payments were being withheld.
21. The Claimant accepted in his evidence that the business trip to Singapore was for business development but disputed the Respondent's position that the US trip was

to find new business; he contended that it was to visit *existing* business clients. However, it was clear to the Tribunal from the evidence that neither trip resulted in any potential further business or clients.

22. The Claimant initially reported to Richard Ellis when he joined in February 2022, but given the personal friendship, the reporting arrangement was considered more appropriate for him to report to Ross Ellis. Richard Ellis in his evidence explained that throughout he had engaged in several discussions with Ross Ellis about the performance of the resourcing division. While there were occasional positive developments, he stated that by the fourth quarter in 2023, it was clear that the annual targets for 2023 were unlikely to be met. This raised concerns about the long and short-term performance of the division and its financial stability.
23. This resulted in the meetings on the 19 December 2023, 29 December 2023, and 01 February 2024. Ross and Richard Ellis considered that the division was operating at a deficit, despite Relltek's significant investment, including funds for the Claimant's extended travel to the US and Singapore, and it was not generating or showing any prospects of generating sufficient revenue. We were satisfied and found as a matter of fact that these concerns were genuinely held.
24. It was clear to us that the Respondent had placed significant investment into the Resourcing Division and in their evidence explained: "that they wanted it to succeed".
25. Further, the Claimant in his evidence maintained that the profit generated would be considered exceptional by industry standards. He maintained that he generated a net profit of £150,000 in 2023. It is clear that Mr Matthey was party to the discussions around improving the performance of the division as evidenced in the documentation and which also resulted in him stating in an email on 3 April 2024 that: "in two weeks' time, if I don't have a strong enough pipeline of candidates in the progress or business already written, I will hand in my notice."
26. We consider that if there had been an intention to close the division down and remove Mr Matthey as early as December 2023, then the Ellis brothers would not have given authorization for the Claimant to continue his travel overseas and expend several thousand pounds in expenses which were paid to him following that date. It is however plausible, and we found that the Respondent were wanting the division to be "turned around" and therefore were continuing their investment into its growth. The Claimant clearly has authorisation and the transcripts evidence that the trips made no difference to the productivity of the division.
27. Mr Ross Ellis throughout 2023 had several discussions regarding the resourcing division's performance with Mr Richard Ellis. The creation of the division was on the basis that the Claimant's initial contracts (via GOAT) were *the buy-in* and the division would expand from there. They had put significant investment into the division. However, by the fourth quarter, it became evident that the annual targets for 2023 were unlikely to be achieved. No new business had been generated, and the early contracts were finalising. This raised significant concerns about the division's short-term results, financial sustainability, and its ability to meet projected targets for 2024. These issues underscored the necessity for a thorough review of the division's strategic direction.

28. Miss Wright explained in her evidence that after the meeting on the 10 April 2024, she was asked to review activity on the Resourcing Division's CRM system and LinkedIn account, both of which were purchased specially to assist in developing the division. She explained how she downloaded LinkedIn activity reports and CRM data and submitted them to Ross and Richard Ellis for review. This effort was intended to provide clear insights into the division's performance and identify actionable steps for improvement, ensuring a collaborative approach to resolving its challenges.
29. We accept Miss Wright's explanation as to her understanding of the motivations behind the request made. What came to light was a distinct lack of activity on those platforms, and few future meetings in the Claimant's outlook calendar. Mr Matthey explained that he used his personal phone and accounts mainly when dealing with clients but failed to provide cogent and clear evidence to the Tribunal in respect of this. This culminated in a request for a meeting and information from the Claimant regarding his activities that was not responded too. For all the reasons set out above, we found that the performance concerns were genuine and based on reasonable grounds.

Was a notice period agreed?

30. We found that the meeting on the 02 April 2024 was to discuss progress of the division and outcomes from trips to Singapore and USA. At this meeting, it was explained to the Claimant that the division had not yielded sufficient *net* profit to justify continued operation. We accept that the meeting aimed to review finances and the broader direction of the business and also discussed the contract with the division's biggest single customer, the multinational beauty company COTY.
31. We find as a matter of fact that a 60-day deadline was discussed and agreed between the parties to see measurable improvement in revenue generation. It was understood between the parties that if targets were not met, the division may need to face closure. The Respondent considered that the Claimant was effectively on 60-days' notice?
32. We have taken into account the Claimant's comments on the 03 April 2024 that he was confident that he would know within 2 weeks whether he would have a sufficient pipeline and that if he did not, he intended to resign from his position. The Claimant submitted he never meant this. However, we consider that at the very least he was engaged in discussions about revenue generation and business development and therefore would have understood the concerns that had been raised and that he was not questioning the legitimacy of those concerns at that stage. Furthermore, the Respondent were entitled to work towards a 60-day period, with a resignation if there were no signs of improvement.

Was the 10 April 2024 meeting hostile and intimidating?

33. The Tribunal watched the CCTV footage of this meeting and read the transcript of this meeting. Alex Wright was also present at this meeting which in her evidence she explained followed her discussions with the Claimant in respect of obtaining some kind of settlement which he had requested that it should be proposed by her.
34. The Tribunal found as a matter of fact that the meeting of the 10 April 2024 was not intimidating or hostile. We considered that the meeting was an important meeting.

We considered during her evidence Alex Wright gave a helpful description in describing the meeting as: “passionate”. The Tribunal had the benefit of watching the recording of the meeting on the CCTV. We considered that the meeting was an intense meeting due to the significance of the subject matter, namely the performance of the Resourcing Division. However, we considered that all parties were demonstrating an equal level of intensity. We therefore did not find as a fact that that the meeting was hostile or intimidating.

35. We accept that the purpose of the meeting was to review the Claimant’s recent activities, gain insights into his business development efforts and understand current challenges. Additionally, Mr Ross Ellis wanted to address the Claimant’s overall performance and ensure that the Claimant felt supported. We noted that Mr Matthey provided reassurances and committed to the department turning around during this meeting.

Was the Respondent concerned about legal action and therefore issued a suspension pursued allegations that did not relate to performance and were disingenuous?

36. We accept that Mr Ross Eliss requested that Alex Wright download activity reports from their internal CRM system, Bullhorn, as well as LinkedIn, to evaluate the Claimant’s business development strategies comprehensively. Upon reviewing the data, he discovered that there was very limited activity recorded across all of the Claimant’s accounts. To investigate further, he reviewed the Claimant’s Microsoft Office account and found little to no evidence of meetings or meaningful engagement with clients or prospects. Mr Ross Ellis deemed this to be highly concerning as it indicated a significant gap between the Claimant’s reported commitment and his actual performance.
37. We accepted his evidence. We did not find the Claimant’s evidence plausible that he would mainly use his personal accounts. Furthermore, it would have been very easy for him to provide those documents to the Respondent as requested in the 16 April 2024 letter. We do not consider that there were concerns about legal action that motivated the Respondent’s to dismiss the Claimant we accept the evidence of Mr Ross Ellis that there were concerns in respect of client contact when an individual who previously was responding was not responsive to communication. The Tribunal was referred to documents that demonstrated that the Claimant refused to take phone calls.
38. In his letter of 16 April, Richard Ellis also informed the Claimant that he intended to review the Claimant’s performance over the preceding six months and explain the lack of customer-related activity. The Claimant declined to attend or provide any past information about those activities. From 22 April 2024, he also declined to speak on the phone to his line manager Ross Ellis, later requesting all communication to be in writing.
39. Around this time, Ross Ellis asked Miss Alex Wright, who had switched her role to focus on the Respondent’s internal recruitment and HR, to conduct an investigation into the Claimant’s activities. This was despite the fact that the Claimant had known Miss Wright for some years and had recruited her to the Respondent.

Was Miss Alex Wright the appropriate individual to oversee the investigation and/or was she conflicted and did she have adequate qualifications?

40. After the meeting of 10 April, Ms Wright had written an email to the Claimant to clear the air between them. She acknowledged that there was a conflict of interest for her in her new role when dealing with the Claimant. We were satisfied and found as a matter of fact that Miss Alex Wright was a suitable individual to carry out the investigation. We found her to be very candid in her evidence to the Tribunal about the phraseology she used in her email to the Claimant. She explained that as far as she was concerned, the conflict of interest was settled. She also clarified that in respect of the conflict she meant in respect of the discussions around the settlement agreement and the Claimant's denial of this at the 10 April meetings, which was the immediate cause of their argument following the meeting. However, the conflict of interest was also potentially about (i) their previous friendship and (ii) the fact that the Claimant had potentially left her in some difficulties in 2023 as the Claimant had been bringing in so little business that she had not been earning enough money to provide for her son. The Tribunal was not persuaded that Alex Wright was not a suitable person to conduct the investigation. We considered her to be fair, objective and reasonable in the circumstances and professional throughout and showed genuine care and concern for the Claimant and resolving the situation. Further, this was a small organisation, and it was the Claimant that recommended her to the organisation.
41. She had commenced and was seeking advice and guidance from the Respondent's external HR company and had started albeit had not completed the CIPD course. We also were taken to a PowerPoint presentation which was authored by the Claimant with a slide dedicated to Alex and the value that she had brought to the business and explaining that she was keen to begin a CIPD qualification and: *"it could also be a route she ends up taking within Relltek when we realise a need to establish a HR function too"*.
42. She was recruited by the Claimant into the business (and described that they had personal connection, namely they were friends and had got to know each other through social media.
43. There was no dispute between the parties that there had been a conversation between Miss Wright and the Claimant ahead of the 10 April meeting regarding a settlement or redundancy package. Miss Wright explained that the Claimant wanted her to make this proposal to the senior management team. However, the Claimant's position at one stage was that he was merely informing her of this wish and would raise it himself at the meeting.
44. Miss Wright made the proposal to Richard and Ross Ellis that this was a request that had come from the Claimant. During the meeting of the 10 April, the Claimant was asked if he was looking to walk away with a settlement and he stated that he was not and that he was fully committed to the business. We accepted and found that she attended this meeting in order to try and mediate any misunderstandings and provide support to the Claimant while ensuring there was a resolution. We also accepted the evidence of Miss Wright that she continued to give the claimant lifts following this meeting and drove him home after the meeting.

45. She gave detailed explanation in evidence as to how she followed an investigation plan, she interviewed witnesses individually to prevent collusion and used open ended questions. We considered the investigation robust and considered it was fair and balanced. Namely, where further evidence was required, she clearly explained that.

Was the Claimant offered support following the 10 April meeting?

46. We found as a matter of fact that the claimant was offered support following the 10 April meeting. Miss Wright confirmed in her evidence that Ross Ellis offered increased support and alignment on business development efforts and the discussion concluded positively. We also noted that in the transcript there was clear reference to this namely, that there are several references to support what has been offered and discussed over the 2-year period. Ross Ellis mentions that he repeatedly asked the Claimant what further support was required over that period and until very recently.
47. We found that following the 01 February call, there had been commitment to providing additional support. Mr Ross Ellis explained that he encouraged in-person meetings and agreed to the potential use of a London WeWork space if it made financial sense and targets and the support required was again discussed at the 10 April meeting.

Was there unilateral imposition of unreasonable performance targets?

48. The claimant stated that during the 19 December 2023 meeting, Ross Ellis unilaterally *sought to impose new, higher, purportedly “non-negotiable” performance targets upon me. Such “non-negotiable” targets required the division to generate £1million in gross profit.* We have noted that the target for £1million pounds was contained within the contractual documents. This appears to have been a soft target as there was an understanding that resource division would need to scale up. However, there was mention of realistic targets in the 10 April 2024 meeting.
49. For clarity, in January 2022 when the Claimant joined the Respondent, he had a commission package based on *net* profit and sales. He would receive quarterly commission of 20 per cent of any net profit and a £5,000 bonus if his quarterly net sales hit £100,000. This was a soft target, however.
50. In May 2023 these terms were revised; the Claimant argued that he could not earn enough money because the Division would not be in profit for a while. So, his quarterly commission changed to 20 per cent of *gross* profit. His bonus targets were also changed so he would receive £5,000 if quarterly profit hit £125,000 gross, and £10,000 if annual profit hit £500,000 gross. Additionally, when the division’s annual sales profit reached £1,000,000 gross, the Claimant would be entitled to a bonus of £25,000. The Claimant signed this contract on 2 May 2023. A third contract, signed on 5 February 2024, kept the same terms.
51. Further, Ross and Richard Ellis started recording meetings as they explained that they were concerned about the changeable nature of Mr Matthey’s recollection of matters that had been agreed. We consider that this is supportive of their understanding that matters had been agreed at meetings but then later disputed which is why they considered it necessary to record conversation.

Were the minutes of the disciplinary meeting on 8 May 2024 fabricated?

52. There was much evidence before us in respect of the minutes of the meeting dated the 08 May and the emails that contained them. We also heard expert evidence from Mr Richards, who attended on behalf of the Claimant.
53. The Claimant did not attend the disciplinary meetings. The initial meeting was rescheduled to accommodate the Claimant. In their evidence Miss Laura Ellis and Mr Osbourne confirmed that she attended the meeting at the office and he attended from home.
54. Miss Laura explained that it was the change of date of the meeting which led to the typing error where the wrong day/date was referred to.
55. Mr Richards gave evidence surrounding emails and their unseen “headers” – computer code which tracks the origin and journey of emails through the internet. He analysed the headers of two emails: the first carried an attached document containing guidance on how to conduct a disciplinary hearing, and the second an attached document containing minutes of the disciplinary meeting. They were sent by Mrs Ellis on 7 May and 8 May respectively. Mr Richards found that the email headers were truncated, indicating that the emails may never have been sent to the recipients over the internet. His report concluded, however, that without knowing which program was used to export the emails, he could not be absolutely certain of this.
56. We considered that Mr Richards was balanced in his evidence and sought to assist the Tribunal. He was also asked to comment in oral testimony on the minutes themselves – a subject he had not previously been asked to look into. A date in the minutes had initially been wrong, and it was clear from his evidence that he was unable to find fault with Miss Laura Ellis’s explanation of how that date had subsequently been corrected by her. We found Mrs Laura Ellis’s account to be credible. Her account was supported by the evidence of Miss Wright and Mr Osborne, and we considered that they were all reliable and credible in that regard.
57. Mr Thomas accepted that motivation would need to be considered as part of any conclusion that there had been manipulation of the emails. The Tribunal found no motivation that would explain why the emails would be manipulated in the way it was being suggested. Therefore, we preferred the evidence of Miss Ellis and the Respondent’s witnesses and considered that the minutes were genuine and that date had to be corrected by Miss Ellis as she had in error retained the initial date within them.

Unfair Dismissal

58. Section 94 of the Employment Rights Act 1996 gives employees the right not to be unfairly dismissed. Enforcement of the right is by way of complaint to an Employment Tribunal under section 111. The Claimant must show that he was dismissed by the Respondent under section 95, but in this case the Respondent admits that it summarily dismissed the Claimant on 08 May 2024.
59. Section 98 of the 1996 Act deals with the fairness of dismissals. There are two stages within section 98. First, the employer must show that it had a potentially fair reason

for the dismissal within section 98(2). Second, if the Respondent shows that it had a potentially fair reason for the dismissal, the Tribunal must consider, without there being any burden of proof on either party, whether the Respondent acted fairly or unfairly in dismissing for that reason.

60. The Claimant stated that the dismissal was unfair because the Respondent followed an unfair process; he was not given suitable notice to attend the investigation and furthermore the investigation process was led by Alex Wright who he stated was not suitably qualified and retained a conflict of interest.
61. The Claimant explained that the process was not followed in accordance with ACAS guidance as he believed the disciplinary hearing did not actually take place and the minutes of that meeting were fabricated. He explained that the Respondent failed to consider his written responses to the allegations against him at the disciplinary meeting, and the outcome was predetermined as he considered that a decision had previously been made to remove him from his position and the allegations and disciplinary process were created in order for that to occur. He also maintained that any appeal was incapable of correcting the unfairness because the appeal had to be sent to Richard Ellis who was the main accuser and would not be capable of treating the appeal fairly. The Respondent maintained that it had taken all necessary steps to follow a fair process, had considered the claimant's explanations, strongly disputed any fabrication of documentation and maintained that they acted reasonably in dismissing the claimant. They also liaised with an outside HR company throughout the process.
62. It is not in dispute among the parties that the Claimant was dismissed, however there is a dispute between the parties as to the reason or principal reason for the dismissal. The Respondent's position is that the Claimant was dismissed due to gross misconduct, the Claimant's position is that the allegations against him are fabricated and/or that in the alternative, they do not constitute gross misconduct.
63. 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 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.
64. 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).

What was the principal reason for dismissal?

65. The Claimant's position is that the Respondent could not have genuinely believed that the alleged actions of the Claimant could constitute gross misconduct. That the

Respondent had decided that they did not wish for the Resourcing Division to continue and wished to bring it to a close.

66. We have already rejected the argument that there was any predetermination to close the resourcing division and remove Mr Matthey as set out in our findings of fact above. We considered that the performance concerns were legitimate and that the continued investment and meetings were carried out to ensure that the division did turnaround and that Ross and Richard Ellis wanted the division to succeed.
67. We find that the Respondent, held a genuine belief that the claimant was guilty of misconduct. Their oral evidence was clear about why they dismissed; the dismissal and appeal letters were clear in that the allegations had been considered. In coming to this conclusion, we have considered each of the allegations and the outcome of the investigation report, the letter of suspension setting out the allegation and the letters inviting the claimant to a disciplinary and investigation meetings.

Airpods

68. The allegation under investigation related to the procurement of airpods for personal use which had not been reimbursed to the company which ultimately resulted in the consideration of theft of airpods. There is clear reference in the documents before us that this was a matter that had been raised with the Claimant. The Claimant's position was that there was nothing unusual about ordering personal items on the company account with an understanding that the amount would be repaid and that items were often obtained like this and that this was again another disingenuous reason used to remove him from his role. He explained that Olivia Crewe, a Relltek employee, purchased the £180 AirPods for the Claimant via Relltek's business account, which would be reimbursed to Relltek by the Claimant. He claimed that before he asked Ms Crewe to order them, he had verbally asked permission from Mr Richard Ellis. Mr Ellis denied that he had given any such authorisation.
69. We were not persuaded by the Claimant's argument. We considered the written evidence of Olivia Crewe in the documentation and the evidence of Richard Ellis and preferred their evidence. Further, it was unclear to us why the Claimant, despite stating that there was always an intention to pay, did not make sufficient efforts to pay in our view, despite correspondence requesting him to pay.
70. Mr Ellis explained that the general process for procuring goods and services through the company would have been discussed with the Claimant and that he did not give approval for the purchase of the Apple AirPods. We were satisfied that the way the airpods were obtained was not in line with the company policy, which we referred to and which required authorisation for any procurement of additional equipment beyond what is provided for employees. We heard that employees are issued new headsets that are readily available in the office.
71. We note that matter relating to the AirPods was raised by Laura Ellis in the first instance and then brought to Mr Ellis' attention by Laura Ellis and Alex Wright. This came to light on the 22 April 2024 and we consider that this was due to the company looking into matters carefully following the lack of activity that had transpired in the recent searches on the 16 April, despite significant investments into the Claimant's

overseas trips. We do not accept that it was because the Respondent was looking to pursue disingenuous allegations.

72. We accepted the evidence of Richard Ellis who also explained that if there had been some meaningful response or engagement, it is likely that the matter could have been resolved. We consider that the Respondent held a genuine belief in the misconduct and the lack of reimbursement was of concern to them.

Removal of equipment from the Warehouse

73. It was the Claimants position that this was a *completely baseless and unnecessary accusation that has been deliberately fabricated and altered during the course of the investigation. That amongst matters it was important to note that the Claimant was not alone in the premises or unsupervised.*
74. We find that the claimant breached company policy by removing items from the Respondent's warehouse on the 18 April 2024 without permission.
75. The Claimant explained that the equipment removed was his personal belongings, stored in the warehouse when he was due to move property. He initially maintained that storing items was a 'perk' granted to him by the Respondent. However, the Tribunal noted that before he stored the equipment, permission was obtained and granted by Richard Ellis in a series of WhatsApp messages in respect of the Claimant storing his personal items in the warehouse.
76. The Claimant then accepted in evidence that storing personal items was not a contractual perk. We found that the company's disciplinary rules are clear on the need for prior permission to remove material or equipment of any kind from the warehouse. Given the nature of the sensitive data and IT equipment that is stored for clients within the warehouse, the Respondent were rightly to be concerned about the way items were removed without authorisation.
77. We consider that the Claimant's reasons for: "*they didn't want them to have anything over him*" referring to the ongoing discussions were unreasonable. There were others in the organisation that he could have communicated with to notify the senior management in respect of removing items.
78. Mr Richard Ellis was clear that clients would have issues with individuals accessing the warehouse and removing items without authorisation. It is also of note that there was a comprehensive audit that was carried out to ensure that nothing had been removed other than the Claimant's belongings and agreed there was nothing.
79. Further, we do not consider that the allegation was simply the Respondent's version of events. We consider that there was no explanation given by the Claimant prior to entering the facility and that the Respondent was looking into matters to establish what had occurred as evidenced by the audit. The Claimant later admitted that a driver (i.e. an unauthorised person) had also entered the premises to load his belongings into the van.
80. We consider this was a serious breach of the policy and did raise security concerns due to manner in which the Claimant chose to retrieve his belongings.

81. We consider that it is relevant that this occurred only after 2 days following a letter where he was requested to provide an explanation for the expenses incurred in overseas trips yielding little traction for revenue generation. We consider that the Respondent held a genuine belief in the misconduct in respect of this.

Insubordination

82. The Claimant refused to communicate and meet with the senior managers of the team. We were not persuaded by the Claimant's argument that this was in essence entrapment. The Claimant's position was that he wished for communication to occur in writing as per his emails of 23 and 24 April 2024, and that was a reasonable request. The email of 23 April requests confirmation that the Claimant is receiving calls and that he is to rearrange his activities to attend a 9am call to explain current activity. Which is reiterated in the 24 April 2024 email by Ross Ellis. Further, in his email of the 25 April 2024, Ross Ellis states how he is surprised by the Claimant's comments given the last meeting had ended positively with some positive communications since then. We considered this was persuasive evidence of the Respondent genuinely seeking to understand the situation and the circumstances unfolding.
83. The Claimant considered that it was his letter setting out that he was seeking legal advice was what initiated the request for informal communications from the Respondent which was unusual as taking and receiving calls was not a method of communication that he would normally use with Ross Ellis.
84. We accepted the evidence of Richard and Ross Ellis that it was unusual for them to receive emails from the Claimant's personal accounts. We did not consider it reasonable for the Claimant to request all communication to occur in writing. Relltek was a small organisation and therefore we did not consider it surprising that communication was informal involving telephone messages and calls.
85. We have many examples before us in which the communication between Ross Ellis and Richard Ellis and Mr Matthey occurs over WhatsApp and face to face meetings.
86. Mr Ross Ellis was also clear that there were concerns about this behaviour and there was still communication at this stage between the Claimant and client. Ross Ellis explained that he was seeking to understand the situation. He specifically requested that the claimant have no contact with clients in a letter that was sent to the claimant.
87. We consider that it was reasonable for Mr Ross Ellis to request a face-to-face meeting and/or a phone call discussion and that it was reasonable for the Respondent to consider that Mr Matthey failed to follow a reasonable management instruction. As mentioned above, it was the Claimant who wrote to Ross Ellis on 23 April and 24 April to request keeping their communications in writing.
88. The Claimant also ignored questions by email from Ross Ellis checking if his calls were being received and multiple requests to speak. Further, the Claimant was requested to cease all activity in respect of contacting clients. However, in his oral evidence he accepted that he may have contacted clients but could not be sure.

89. We accept the evidence of the Respondent's witnesses that the Claimant's behaviour had changed since his return from the Singapore trip, which is also supported by the evidence of Alex Wright. We consider that the Respondent were rightly concerned about the breakdown in communication and were unable to gain an understanding of the Claimant's conduct without speaking to him. We also accept the evidence of Mr Ross Ellis that this was the first time the Claimant was unable to take a phone call and matters were escalating in that the Claimant had attended unannounced and removed items from the warehouse which at that time it was unclear what had been taken.
90. The Claimant was an employee at this time, there were no formal investigations at this stage, we consider that the request to speak was reasonable given the seriousness of the circumstances unfolding.

Expenses

91. We also consider it important to note that this failure to follow instructions occurred after it was requested that the Claimant provide an explanation for his expenses which, if he had information in his personal accounts, could have been easily provided to the Respondent.
92. The Claimant considers that there were absolutely no legitimate grounds for suspicion concerning the expenses claim. The escalation as a misconduct matter itself was both unnecessary and malicious.
93. The Tribunal accepted the evidence of Ross Ellis, Laura Ellis and Alex Wright. The Tribunal were supplied with copies of the receipts but only had regard to the ones that we were referred too. The concerns arose following an audit which showed that there are no client contact or contractor names attached to individual receipts There were also timestamps between midnight and 03:00am. There were missing names of attendees and organisations, and the Tribunal accepted that the Respondent wished to establish which were appropriate and reasonable.
94. The Claimant in closing submissions states that he should have been given more time. We consider that he was given a reasonable opportunity to engage. In his letter of the 21 April 2024 the Claimant does state that he is willing to input outlook calendar, LinkedIn and Bullhorn and/or provide detailed record of all business activities. The Respondent's response is that: *"it is not unreasonable for us to expect you to utilise the CRM system in place, nor is it unreasonable for us to request an explanation for the lack of usage. These tools were defined by you, as essential tools for Relltek Resourcing business operations"*.
95. There appears no dispute that these matters were not on the CRM systems and therefore we consider that the lack of accurate records provided did raise legitimate concerns. Ross Ellis explained that the lack of activity on CRM raised concerns as to what the Claimant had been doing. In respect of being provided with additional time, the Claimant did not engage with the process, and we consider that he had adequate time to provide the relevant information had he chosen to engage. The Tribunal also heard from the Claimant regarding some of the entries he had inputted into his personal outlook calendar of which snapshots were provided. We consider

that these would have required explanation from the Claimant in any event, had they been sent to the Respondent, as they remained vague in respect of what they were referring to.

96. The Claimant also in his evidence accepted that Mrs Laura Ellis was meticulous in her professional work. We accepted her evidence that payment was made and not delayed at the request of Mr Ross Ellis to ensure that the Claimant was paid before Christmas which he had specifically requested. In respect of the fact that there were irregularities identified by her in respect of the expenses claimed and that this was brought into focus once the lack of activity on the company's systems in respect of business development. Mr Ross Ellis was clear that he reviewed the Microsoft Office account and found little to no evidence of meetings or meaningful engagement with clients or prospective clients. We accept that this was highly concerning for them given the nature of the amount spent. We consider that the concerns were genuine and that they remained in the absence of any engagement or explanation provided by the Claimant.

Misrepresentation and conduct

97. The Claimant's position on this was that the evidence clearly shows that Mr Richard Ellis was aware of and approved of all of the Claimant's activities with clients and never really challenged them until April 2024, when it suited the Respondent's agenda in order to assist in removing the Claimant from employment.
98. There appear to be two matters raised by the Respondent. One relating to a client Cornerstone and the second relating to a client Market Axess. In respect of the latter, Miss Alex Wright in her investigation report explains that the referral arrangement put in place would be against client engagement principles due to Richard Jones [Director at Aegis] having positions both at Aegis and Market Axess. Further, in respect of Cornerstone, it related to an apparent agreement with Imran Afzal at Cornerstone.
99. The Claimant's position is that clients believing they were owed £15,000 was due to Mr Ross Ellis's agreement with Imran Afzal from 2022, and all direction on payments to Imran Afzal would be taken from Mr Ross Ellis. The Tribunal were referred to WhatsApp messages between Mr Afzal and Mr Matthey, but we did not consider they were conclusive of the Claimant's stance. The WhatsApp messages in respect of Imran Afzal demonstrate that the Claimant was discussing what could be signed off and there would be further discussions that involved him with the senior leaders.
100. The evidence from Mr Richard Jones within the documentation of Aegis and Market Axess states that Mr Matthey was his sole point of contact and that the formal contracts between Aegis Data Management and Relltek were *originally* agreed and signed by the previous director of Aegis, Jon Purdon and Richard Ellis, Chief Operating Officer. We did not consider the evidence was conclusive as being a signatory to formal contracts on behalf of the company did not equate to continuing ongoing discussion nor did we consider that it demonstrated that the allegations were fabricated. We accepted the evidence of the Respondent's witnesses that these were genuine concerns that required investigating.

Suspension

101. The Claimant was suspended and investigated for alleged abuse of the Relltek expense policy. They explain in the suspension letter dated 25 April 2024 that following the expenses being signed off in good faith on December 15th that there were several discrepancies that needed to be investigated. The matter was referred to the disciplinary hearing where the matter was upheld on the basis of alleged misconduct and further, there had been a failure to provide an explanation.
102. The letter makes reference to potentially unjustified entertainment expenses for November and December 2023. The Tribunal considered the expenses policy which explained that appropriate evidence is required when submitting expenses.
103. We accepted the evidence of Ross Ellis who explained that he had initially paid the expenses as he wanted the Claimant to be reimbursed in a reasonable time as he explained that he needed the money. The WhatsApp messages support that Mr Matthey wanted the expenses to be paid as soon as possible. Further, we accepted the evidence of Laura Ellis who explained that she had raised the matter with Ross Ellis as she considered that the expenses were not only high in value but there was a lack of appropriate documentation. She explained that as Ross Ellis was happy to authorise them at that stage that she left the matter there.

Breach of suspension

104. We accept that Miss Alex Wright had stated that there would need to be further investigation into this matter if this allegation was to be taken forward. It appears that reliance was placed on the Claimant's email dated 30 April 2024, in which he stated that he had been informed by clients that Richard Ellis had discussed his suspension with them. It was unclear which client was being referred too. Though in his oral evidence the Claimant accepted that he may have contacted clients, we have placed this out of our mind and considered only what the Respondent knew of at the relevant time. We consider that there was insufficient evidence to rely on this as a formal allegation and that it should not have been progressed to the final disciplinary hearing.
105. We therefore consider that the Respondent had reasonable grounds for their belief that went to the disciplinary hearings, save the allegation of breach of suspension matter for the reasons set out above.

Was a fair procedure followed?

106. We consider that a fair procedure was followed. The evidence from the Respondent's witnesses was clear about why they dismissed the Claimant and the concerns that required further investigation, the dismissal and the invitation to appeal letters were unequivocal on this point and they had reached their conclusions by carrying out a thorough investigation.
107. We accept that the Disciplinary Hearing outcome letter as authored by Sam Osborne, could have provided more detailed explanation of his findings. However, having heard from Mr Osborne, we were satisfied that he gave careful consideration to each of the allegations before him. We considered he was very honest in respect of his

lack of experience in the evidence and that he was guided in the contents of the letter by the external HR advisers.

108. We do not consider Mr Matthey was prejudiced by the lack of detail in the letter as we consider that some explanation was given. Further, the allegations had been thoroughly set out in an investigatory report that had been responded to by the Claimant. The Claimant was aware of the allegations that he was being investigated for and chose not to attend the investigatory process, nor the disciplinary meeting.
109. The Claimant chose not to engage and his reasons for not appealing were that his appeal would be heard by Richard Ellis and that the dismissal letter did not set out the full reasons of the analysis given by the decision-maker. We consider that the Claimant was not precluded from appealing the outcome if he considered that there was a lack of evidential basis for the decision and it would have been open to the Respondent to seek advice on the handling of the matter. We reminded ourselves that this was a small employer who was seeking advice from the external HR professional when required.
110. The Respondent is not a large corporate employer and the steps it took to investigate were, in our view, reasonable in all the circumstances of the case. The Respondent was seeking external advice and carried out a thorough investigation which included a stock check of items in the warehouse and a comprehensive search of the Claimant's records. The Claimant was given an opportunity to attend meetings. Meetings were rescheduled so that he was able to attend and he chose not to do so. We consider that there was no evidence before us that Sam Osborne dismissing manager (or Miss Wright investigation officer; the decision-makers at the investigatory and disciplinary stage were prejudiced. We consider that the process was held over a reasonable period of time and in accordance with ACAS.
111. Despite being a small management team and company, the Respondent took steps to ensure that different individuals chaired the disciplinary hearing and the investigatory meetings.
112. We have the band of reasonable responses clearly in mind in reaching our decision. It is immaterial what decision we would have made. There was no evidence to suggest that the outcome was a foregone conclusion or that allegations were fabricated or disingenuous.
113. Mr Osborne was confident that his conclusions were formed after careful consideration of the evidence as explained in his evidence and we were satisfied also. Notwithstanding that the breach of suspension matter should have not been proceeded with – we consider that the outcome of the disciplinary hearing was still proportionate due to the seriousness of the other matters. Mr Osborne was clear that the insubordination and the removal of equipment were serious in his mind in respect of misconduct.

Unauthorised Deductions

114. The Respondent did not pay the Claimant's notice period. We do not find that the claimant was entitled to notice pay due to the allegations of gross misconduct. In respect of commission payment, we have dealt with the matter below.

Breach of contract

115. In respect of the commission payment, we accepted that the Claimant is entitled to 20% commission on gross profit, and that this commission is not contingent on any target being met. It is the Claimant's position there existed pre-approved pre-existing budget and that money was available for him and other contractors to be paid.
116. The Claimant has explained in evidence, Relltek's additional costs that they are seeking to offset are in fact legal costs incurred and that these costs cannot be retrospectively applied as a cost of sale simply because it suits them. The Tribunal was provided with extensive evidence from both parties in respect of the profit and loss sheets and the commission calculations.
117. Richard Ellis gave evidence several times to the Tribunal. We preferred the evidence of Richard Ellis. We found him to be frank and fair and extremely knowledgeable in his explanation of the calculations. He also prepared overnight additional information for the Tribunal to demonstrate the reasons why commission was not owed.
118. There is no dispute between the parties that there were issues with the contract known as COTY and that payments were withdrawn and disputes arose as the client had not appreciated that it was paying monies on account every month.
119. We carefully considered the employment contract and it is clear that the payment of the commission is discretionary. The commission terms state:
- “The company may in its discretion withhold payment or require repayment in demand of any commission payments that would otherwise have been payable to you or have been paid to you, up to the maximum value of the commission payable or paid in respect of the relevant completed sale in any of the following circumstances:*
- ii) the client or customer amends or cancels a contract with the company or defaults on payment under that contract, in respect of which you have been awarded commission – in this case the company may reduce the commission payable in respect of the relevant completed sale on a pro rate basis based on the loss in the value of the contract suffered by the company as a result of the client's or customer's amendment cancellation or default.*
120. In his evidence Richard Ellis explained that he was not familiar with all the terms of the contract, including the one regarding commission and if Mr Matthey had provided figures, he would have looked through them at the relevant time and established what was fair to be paid. The documentation demonstrated that the Respondent invited the Claimant to follow the process and to forward the relevant details which the Claimant did not respond to. Having looked through the figures, he explained in his evidence that no commission was due to the fact that there were significant losses that outweighed any amount owed.
121. The Claimant also accepted in evidence that it was standard industry practise that you would not be paid commission after you left employment. As stated above, we considered that the commission process was not followed as requested by the

Respondent. We accepted that there was a process in place, firstly between the Claimant and Mr Richard Ellis and secondly - perhaps unknow to the Claimant, Richard Ellis conducting his own checks.

122. Further, we accepted the evidence of Mr Richard Ellis and preferred his analysis of profit and loss due to the oversight and expertise he has. We considered his analysis to be fair and thorough and therefore we accept that no commission was due for Q1 and Q2 2024. He provided a third supplementary statement and in his oral evidence further explained his calculations. We accepted this evidence that there remained unpaid contracts and that there had been additional contractor costs for the relevant period. He gave a detailed explanation as to how payments were made and statements of work and purchase orders. We accepted his evidence.
123. A third profit and loss document was presented by Richard Ellis during the hearing; this was an updated review on the gross profit figures at the Respondent. This confirmed a negative balance relating to the gross profit margins. The Tribunal heard extensive evidence of how commission would be calculated and how funds could be drawn down by the Respondent with respect to client accounts.
124. The Respondent's position is that the claimant was dismissed from his employment following a fair and reasonable investigation process. Clauses 2 and 5 in the commission agreement refer to commission being discretionary. In circumstances where the claimant has been dismissed, we accept that the contract is very clear, the claimant would not be entitled to any commission for Q1 or Q2 in 2024 and therefore we concluded that no commission was payable.
125. Accordingly, the claims are not well-founded and are dismissed.

Employment Judge S Iman
Dated: 03 June 2026