



EMPLOYMENT TRIBUNALS

Claimant: Miss R Stevens

Respondent: Pall Manufacturing UK Limited

Heard at: Southampton (by CVP)

On: 16 – 17 June 2026

Before: Employment Judge Richardson

REPRESENTATION:

Claimant: In person

Respondent: Ms K Nowell (counsel)

RESERVED JUDGMENT

1. I wish to state for clarity that this judgment does not seek to address every point about which the parties have disagreed. It only deals with the points which are relevant to the issues which I must consider in order to decide if a claim succeeds or fails. If I have not mentioned a particular point or piece of evidence it, it does not mean that I have overlooked it, it is simply because it is not relevant to the issues.
2. Throughout this judgment I shall refer to Miss Stevens as the Claimant and Pall Manufacturing UK Limited as the Respondent.
3. By a claim form submitted on 15 August 2025 the Claimant complains of unfair dismissal with an effective date of termination of 20 March 2025 as well as wrongful dismissal. The matters complained about are within time.
4. The Claimant was employed by the Respondent from 4 November 2022 to 20 March 2025 ultimately holding the position of Process Operator at the time of her dismissal. No time limit jurisdictional issues arise in respect of the Claimant's claims.

5. At the beginning of the hearing the Tribunal was presented with a 220 page agreed bundle including an index.
6. The Claimant submitted a witness statement on her own behalf and also submitted a statement from Mr Hall-Stocker.
7. The Respondent submitted three witness statements:
 - a. Mr Raul Galindo, Value Stream Leader LOP with the Respondent;
 - b. Mr Nathan Layland, Product Engineering Senior Manager with the Respondent; and
 - c. Mr Neil Love, Senior Director Operations Filtration Device Plants with the Respondent.
8. These statements were provided in advance of the hearing and I took time to read them. Each witness was then questioned about the evidence contained in their statements.
9. At the end of the hearing Judgment was reserved.

The Issues

10. At the commencement of the hearing the issues that it would need to reach a decision upon in order to decide this case were discussed with the parties. The parties agreed that the issues would be restricted to matters relating to liability and that remedy would be dealt with at a later hearing in the event that I found in favour of the Claimant. The following were agreed:
 11. Was the Claimant dismissed?
 - a. There was no dispute between the parties that the Claimant had been dismissed.
 12. What was the reason for dismissal?
 - a. The Respondent asserts that it was a reason related to conduct, which is a potentially fair reason for dismissal under s. 98(2) of the Employment Rights Act 1996.
 - b. The Claimant disputes this.
 13. Did the Respondent hold a genuine belief in the Claimant's misconduct on reasonable grounds and following as reasonable an investigation as was warranted in the

circumstances?

14. Was the decision to dismiss a fair sanction, that is, was it within the range of reasonable responses open to a reasonable employer when faced with these facts?
15. Did the Respondent adopt a fair procedure?
16. If the Respondent did not use a fair procedure, would the Claimant have been fairly dismissed in any event and/or to what extent and when?
17. If the dismissal was unfair, did the Claimant contribute to his dismissal by culpable conduct? This requires the Respondent to prove, on the balance of probabilities, that the Claimant actually committed the misconduct alleged.

Findings of Fact

18. The following facts were found to be proven on the balance of probabilities after considering the whole of the evidence, both oral and documentary, and after considering the factual and legal submissions made by and on behalf of the parties.
19. The Claimant commenced employment with the Respondent on 4 November 2022 as a Process Operator where her duties included conducting testing of the products manufactured by the Respondent.
20. The Respondent manufactures various products for use in the medical industry, including filtration products. The Respondent tests its products to ensure they meet the required standards before shipping to its customers. The Respondent's products are used for a variety of medical purposes including the administration of medical treatment. The Respondent has a quality assurance team to check test results including performing random checks.
21. The Claimant commenced her employment with the Respondent working in the special treatment room (STR) working on 12 hour night shifts. However, she was later moved to the Laid Over Pleat (LOPS) section to conduct testing on filters there again working 12 hour night shifts. Laid Over Pleat filters are able to remove very tiny particles such as viruses and other impurities from vaccines and other medicinal fluids. The Claimant acknowledged in her evidence that she understood that it was imperative that these products were tested to ensure that they were operating correctly otherwise there was potential risk to the users of vaccines or other medical products filtered using these products.
22. The method of testing these filters was referred to as fast flow (FF). The Claimant had experience of undertaking FF testing both in STR and LOPS, although she asserted in her oral testimony that the FF testing she conducted whilst working in STR differed from that conducted in LOPS. The methodology for the testing was contained in instruction number 0707 entitled Forward Flow Data Capture-Operator Level. The

Claimant's training record confirms that she had been trained to conduct testing in accordance with instruction 0707 between 10 January 2024 and 21 January 2024. The training record is signed off electronically by the Claimant which the Respondent advised could only have been done by her accessing the system using her own password and completing the same.

23. The Product Data Sheet (PDS) sets out the procedure for the manufacture of any particular product and the requirements for the testing that have to be conducted before it is released to customers. The product in question here was a laid over pleat filter with part number FM01980. The version of the PDS originally included in the bundle was version 40 which the Claimant asserted was different to the one she had been using which she said was version 33. During the course of the hearing the Respondent secured a copy of version 33 which was reviewed by the parties and the tribunal. There was no dispute that the testing instructions contained in both were the same, but Mr Hall-Stocker suggested that notwithstanding this, information relating to the specific parts of the testing which the Claimant failed to undertake correctly would not have been easy for her to locate. Unfortunately, no further evidence other than this assertion was put forward by the Claimant to substantiate this alleged difficulty. All of the Respondent's witnesses were very clear that the onus was on the person testing to comply fully with the PDS in terms of the methodology used to conduct the tests and it was the testers responsibility to ensure that there were thoroughly familiar with the requirements for every product they were testing. In her oral evidence the Claimant accepted that compliance with the terms of the PDS was crucial for accurate testing of products and that her training had made it very clear that familiarisation with the PDS was imperative.
24. The Claimant was responsible for conducting testing which included a process called the Second Forward Flow Test (100%). In essence this required the filter to undergo a wetting process which had to be repeated three times to ensure that the filter was completely wetted before being pressure checked. This process was referred to by the parties as purging. Thereafter the filter was subject to water pressure of 85 psi for a period of seven minutes after which the reading from the fast flow machine was recorded manually.
25. On 14 January 2025 random testing identified an unusual set of forward flow (FF) results for a batch of FM01980 filters. Further investigation by the project engineering team established that the batch tested had significantly higher FF results than the established range of acceptable values. These results had been recorded by the Claimant and they were not in line with the remaining product tested by other colleagues on the same batch on the same night. In addition the results recorded by the Claimant for this batch included an unusually high number of more or less identical figures and a low number of unique figures which was considered by the product engineering team to be very unusual.
26. Further investigations were conducted on 15 January 2025. 30 filters were selected at random from those tested by the Claimant and those tested by her colleagues on

the night in question. The results of this testing can be summarised as follows:

- a. The original FF results recorded by the Claimant were not representative of the filters tested.
- b. The repeat testing showed that the samples originally tested by the Claimant's colleagues gave retest results almost exactly the same as their original test results.
- c. Repeat testing of the samples originally tested by the Claimant gave results much more comparable to those observed from her colleagues and different from those recorded by the Claimant originally.
- d. The conclusion was that the results generated by the Claimant were not representative and should not be considered proof of integrity of the batch of filters in question.

27. In the light of these results the Respondent appointed Mr Galindo to conduct an investigation into what had happened. Mr Galindo met with the Claimant on 18 January 2025 to advise her that he would be conducting the investigation, but took the decision not to suspend her at that time. Instead Mr Galindo amended the Claimant's duties so that she was not conducting any testing throughout the period that the investigation was ongoing. Mr Galindo explained that he did not feel that it was appropriate to completely suspend the Claimant in circumstances where the reason for the abnormal results was unclear and, in particular, where there was no evidence that it was the result of deliberate conduct on her part.

28. Under cover of a letter dated 23 January 2025 Mr Galindo invited the Claimant to an investigation meeting on 27 January 2025 which set out in detail the specific allegations being raised against her which were:

"That FF2 results have been falsified when recorded for FM01980 (IL3387); including falsification of documentation; and

You have not followed the correct procedure as documented in the PDS when testing UDV20 (IL3387)".

29. The letter went on to detail who would be attending, the procedure to be followed at the meeting and the fact that she could bring someone with her to the meeting if she so wished. The letter also stressed that the meeting was not itself a disciplinary one, but that if the allegations were proven it could result in disciplinary proceedings.

30. The meeting was held at 07:00 on the morning of 27 January 2025. Present were Mr Galindo and Mr Matt Turner (HR representative). The Claimant attended and was accompanied by Mr Hall-Stocker. The meeting lasted approximately one hour and 15

minutes.

31. At the outset of the meeting it was explained to the Claimant by Mr Galindo what the issue was i.e. anomalous results had been detected which they had not been able to replicate when they had repeated the tests. In particular it was pointed out that for 100 filters it would be expected that there would be between 60 to 85 unique results. However, the figures recorded by the Claimant had only 40 unique results. She was advised because of this, the Respondent had been forced to scrap filters with a value of approximately £500,000 because, even though the majority of the filters had passed testing, the lack of trust in the results meant they had to be scrapped. Mr Galindo explained that his priority was to try to understand why these anomalous results had occurred in case there is any gap in the process, PDS or training which needed to be addressed urgently.
32. During the course of the meeting the Claimant was questioned about how she conducted the testing and I have summarised her responses below:
 - a. The Claimant said that she did follow the PDS, but that she may have taken filters out of the FF machine earlier than seven minutes. She was adamant that she simply recorded the figures that appeared in the FF machine and did not make them up.
 - b. She made reference to having some concerns about the readings she was getting and mentioning this to two of her colleagues on the shift. However they did not seem unduly concerned and so she carried on.
 - c. When asked how she measured seven minutes she confirmed that she guessed when seven minutes had passed stating *"you just have to think it has been seven minutes and then take that"*. Later in the discussion the Claimant confirmed that she had never requested any means of recording the seven minute interval required by the PDS.
 - d. The Claimant stated that as far as she was concerned the only thing that was important was that the filter recorded readings which were higher than the pass rate. She stated that as long as that figure had been exceeded it did not really matter what the figures actually were.
 - e. The Claimant confirmed that she had conducted FF testing in LOPS in the past, but not many times. She asserted that on each of these occasions she had never used a stopwatch. When asked how she was trained to measure seven minutes the Claimant asserted she was not officially trained even though she was signed off as having been trained.
 - f. When asked why everyone else's results were consistent and hers were anomalous she could not explain the difference. She was adamant that none

of her colleagues were using stopwatches to measure seven minutes.

- g. On being pressed further the Claimant confirmed that when the readings on the FF machine stabilised she assumed that seven minutes had passed and recorded that figure.
 - h. During the meeting the Claimant was asked about the training that she had received and she confirmed that she had been signed off on TI 0707. However, the Claimant then appeared to cast doubt on this insofar as she suggested that she had signed herself off as having been trained in circumstances where she may not have had appropriate training. However, she did confirm that she had read the PDS when she started the testing in question as was her usual practice. She was adamant that she had followed the requirements of the PDS to the best of her ability.
 - i. In summary the Claimant's explanation for the anomalous readings was that although she had been aware of the requirement to conduct the testing for at least seven minutes she had no means of measuring seven minutes and so she had waited for the readings to stabilise and assumed that that equated to a seven minute period.
33. On 29 and 30 January 2025, Mr Galindo spoke to seven other process operators all of whom confirmed that the FF machine had a timer on it which allowed them to time seven minutes. They all asserted that the use of the timer was part of the training they had undertaken. Of the seven individuals two indicated that you could use the clock on the wall in the testing room as an alternative to the timer.
34. In his statement Mr Galindo made reference to the Respondent's code of conduct for employees which imposed a responsibility on employees to notify the manager if they are unsure about their responsibilities, to prevent violation of the code and policies and to ensure that all engineering, quality and production records are accurate and, in particular, never to falsify such records or make them misleading in anyway.
35. Mr Galindo stated that in the light of the responses he had received from the Claimant, he was satisfied that she did have a case to answer and that it was appropriate to refer the matter for a disciplinary hearing.
36. Mr Ben Berridge director DBS Ilfracombe branch, wrote to the Claimant on 4 March 2025 informing her that she was required to attend a disciplinary hearing on 11 March 2025 at 06:00 hours. The letter stated clearly that the allegation that she going to be asked to address was:

"Serious breach of PDS (Product Data Sheet) procedure and falsification of FF2 test results RS8888 [the Claimant's identity number]"

37. The letter enclosed copies of the findings of the investigation conducted by Mr Galindo, further detail of the allegations, copies of the relevant witness statements and other documents which might have been used at the hearing. The letter warns that in the event that the allegations are found to be proven it could constitute gross misconduct which could result in disciplinary action including summary dismissal. The Claimant was informed that Mr Berridge would be conducting the meeting accompanied by Liz Judd of human resources, Charlotte Adams would attend to take notes and Nathan Layland as a subject matter expert on the matter but he would not take any part in the decision-making process. The Claimant was advised that she could bring someone with her to the meeting and that she would remain an alternative suspension until the disciplinary process had been completed. Finally she was referred to various support and employee assistance programs if she felt she needed them.

38. At the outset of the meeting on 11 March 2025 the Claimant was asked if there was anything that she wanted to bring to Mr Berridge's attention following her review of the documentation sent in preparation for the meeting. The Claimant stated:

"Yes, I was so anxious in my meeting with Raul, I obviously know about the seven minutes and we use clock on the wall. The stopwatch was being talked about in that meeting, and I zoned in on that. I did not know about the dial on the machine. I was trained in STR and not in LOP, and they do not have that there. As far as I know they do not have them in there. I was really anxious. And I just do know how to time it."

39. The other significant points arising out of the meeting can be summarised as follows:

- a. During the meeting the Claimant again made reference to querying some odd results with her colleagues and being told that it was may be due to it being a different roll trace.
- b. The Claimant again reiterated that she simply recorded the figures that appeared on screen in the FF machine and that she did not make them up.
- c. The Claimant asserted that she was confident that she had followed the correct process and that she had measured seven minutes by using the clock on the wall during the shift in question.
- d. The Claimant also suggested that the opening the door to the testing room could have an impact on the test results. However Mr Layland opined that would result in variations in all of the test results not just those for the Claimant. Later in the meeting Mr Hall-Stocker who was accompanying the Claimant, queried whether there was some significance to the door opening and closing as it would happen more frequently during the day when more people were about. Mr Layland confirmed that the retesting was done during the day shift and so there was some difference between original test results and the retested

results.

- e. It was suggested to the Claimant that she had not tested the filters for seven minutes, but instead had waited until she got a figure that represented a pass and then stopped the testing recording that figure. Her response to this was:

"Probably yes. Actually, no I would have gone by the clock, as that is what it says on the PDS, and I would have gone by the clock."

- f. The Claimant noted that the individuals, Ben Payne and Richard Woodger, to whom she had mentioned she had noticed unusual readings to had not been called as witnesses. Mr Berridge noted the position saying he would think about it.
- g. The meeting was adjourned to allow further testing to investigate whether there was any significance to the possibility of the door to the testing room being opened less frequently at night than during the day when the retesting was been undertaken.

40. Mr Berridge tasked Mr Layland to undertake this further investigation. This determined that not only was the Claimant not complying with the PDS by allowing at least seven minutes to elapse before taking a reading on the FF machine, she also failed to conduct the three purges required prior to commencing the seven minute pressure check. The investigations determined that the Claimant had conducted testing on 10 filters during the course of a single 60 minute period clearly indicating that she was not adhering to the requirements of the PDS. In Mr Layland's conclusion he stated that the failure to comply with the requirements of the PDS was likely to have a much more significant impact on the results than any potential pressure changes caused by the opening and closing of the testing room door. Accordingly, he did not conduct any further analysis of potential impact that this might have had on the results.

41. On 17 March 2025 the Claimant was invited to attend a reconvened disciplinary hearing on 20 March 2025. The invitation letter attached a copy of Mr Layland's report detailing the further investigations he conducted after the preliminary disciplinary hearing as well as a copy of the minutes of that meeting. The letter made clear that the Claimant should familiarise herself with the report prepared by Mr Layland and that she should bring along any further evidence that she wished to present to the hearing.

42. The reconvened disciplinary hearing took place on 20 March commencing at 14:30 hours and ending two hours later. At the meeting Mr Berridge, Ms Judd, Charlotte Adams (notetaker) and Mr Layland attended for the Respondent. The Claimant attended accompanied by Mr Hall-Stocker.

43. The key points of the discussions during the meeting are set out below:

- a. The Claimant was asked whether she was absolutely clear about the fact that she was conducting the pressure test for seven minutes and she confirmed that she was.
- b. When shown the graphical data illustrating that the Claimant had conducted 10 tests in one hour which meant that she could not possibly have been conducting the testing in accordance with PDS, her response was that she was keeping an eye on the clock and that, although she thought she was doing the test properly, she must have been taking the readings too early.
- c. The Claimant was asked specifically whether she knew about the purging tests i.e. the requirement to whet the filter three times before conducting the pressure check. She responded that she was aware of the need to conduct purging each time and could not explain why she did not do so commenting "*maybe I went back to muscle memory and was just testing how I know, and not to this product.*"
- d. It was explained to the Claimant that the time taken to conduct a proper test on a filter was something in the region of 11 minutes per filter, but the data showed that there were at least three occasions where she conducted tests which lasted less than seven minutes. Again the Claimant replied that she must have resorted to muscle memory, but insisted that she did not do it deliberately.
- e. It was explained to the Claimant that the investigations conducted by Mr Layland confirmed that the Claimant had not conducted purging on any of the filters that she tested. In response the Claimant again repeated that she did not do it on purpose and that she had simply written down results that appeared on screen on the FF machine.

44. The meeting was adjourned at 15:48 to enable Mr Berridge time to consider his decision. He returned approximately 15 minutes later. He advised the Claimant that she was being dismissed with immediate effect and that she had five working days to appeal his decision. He explained that he had given consideration to issuing a final written warning, but regarded the situation as a very serious breach of the PDS which in his view was intentional. He noted that the Claimant had been trained on TI0707 and had stated that she was aware of the need for the pressure testing to be conducted for seven minutes. But the investigation had established that she had not conducted any of the testing properly including not conducting three purges as was required by the PDS. He also noted that there were a number of repeated results which were statistically highly unusual and indicated that he believed that showed they were falsified. He also noted that the Claimant had not been transparent throughout the investigation or the disciplinary process and was concerned that there was a risk that the same thing could happen again. In the circumstances he believed he had no

alternative but to dismiss her summarily.

45. Mr Berridge wrote to the Claimant on 8 April 2025 setting out in detail the reasons why she had been summarily dismissed. In this he expanded on his view that the Claimant had falsified the test results stating the failure to follow the requirement to conduct the three purges and then allow seven minutes before taking a reading amounted to a falsification of the testing process. He also reiterated that the unusual consistency and repeated numbers in her test results were highly suspicious and again indicative of them being falsified. He explained that it was his view the Claimant had taken the decision to take shortcuts to complete the testing earlier than expected. Other factors listed in the letter included the potential reputational damage to the Respondent and the potential risk to end-users of the product as well as the significant cost to the business of having to scrap filters to the value of Euros 185,000.
46. On 24 March 2025 the Claimant lodged an appeal against her dismissal on the following grounds:
 - a. She disputed that she had been intentionally falsifying data.
 - b. She asserted that the outcome of the disciplinary investigation had been pre-determined.
 - c. The data provided to her did not establish that the results she had recorded were false i.e. it was the Claimant's position that she simply wrote down what she saw on screen.
 - d. The data used by the Respondent in its investigation was very selective.
 - e. The allegation of falsification of data should have been treated separately from breach of the PDS.
 - f. The penalty was too severe and the most she should have received was a final written warning.
 - g. No account was taken of her good employment record.
47. On 17 April 2025 Mr Love wrote to the Claimant inviting her to attend an appeal hearing on 24 April 2025.
48. The appeal hearing was conducted by Mr Love accompanied by Ella Croucher (HR business Partner) and Lorna Byrne who was the notetaker. The Claimant attended accompanied by Mr Hall-Stocker. The relevant parts of the discussion are summarised below:
 - a. The Claimant confirmed that she did not read and therefore did not follow the PDS, but was adamant that she did not falsify the numbers as she simply wrote

down the numbers that appeared on the screen on the FF machine.

- b. Later she confirmed that she had not conducted the three stage purging process and she thought that the seven minutes was simply a guideline.
- c. Asked if the PDS was not clear the Claimant responded *"I did not read it. I looked at pressure the forward flow had to be on. In all honesty, I did not think it would go this far. I thought it would be a first and final (written warning) and then it spiralled out of control."*
- d. In relation to the allegation that the outcome of the disciplinary process had been pre-determined the Claimant admitted that she had no evidence to support this. The Claimant simply asserted that she set felt from the outset of the investigation that her job was done.
- e. In relation to the allegation that the Respondent had cherry picked data used in the disciplinary hearing it was confirmed that tests were conducted on data streams A, B, E and F, but only the data from the latter two streams was presented in Mr Layland's report.

49. On 2 May 2025 Mr Love wrote to the Claimant to advise her that her appeal had not been upheld. I have summarised the key points of his reasoning below:

- a. In relation to the denial of intentionally falsifying data Mr Love noted that the Claimant had not produced any evidence to support her assertion that she had not falsified data and he took notice of the fact that the data from the FF machine indicated that the flow value for party never dropped below 8.92 but that the Claimant had recorded figures much lower than this. The only explanation for this was that the figures were false.
- b. In relation to the allegation that the outcome of the disciplinary process was predetermined, Mr Love again noted that the Claimant provided no evidence to support this other than her assertion that it was her feeling that this was the case. Mr Love met with the investigation manager, Mr Galindo who confirmed that his role was purely fact-finding and that he liaised closely with HR to ensure a fair process was followed. Mr Love also spoke to Mr Berridge who confirmed that his decision was based solely on the evidence presented to him during the course of the disciplinary hearings.
- c. In relation to the allegation that the data provided did not prove that the results recorded by the Claimant were false, Mr Love again referred back to the fact that the flow data for part E of the test results never dropped below 8.92, but that the Claimant had recorded figures starting with a seven which could only have been false.

- d. In relation to the allegation that the data in Mr Layland's report had been cherry picked, Mr Love followed up with the engineering manager who confirmed that he selected the data from part E at random and then followed that with the data from part F. The results from the analysis of the data from parts E and F were so conclusive that there was no need to analyse the data from parts A and B as that data would not change the fact that the figures recorded by the Claimant for parts E and F had been falsified.
 - e. In relation to the allegation that the sanction of summary dismissal was too severe, Mr Love confirmed that he reviewed previous cases involving serious breaches of the PDS and, although was not able to disclose the detail of those cases, he was satisfied that the right outcome had been reached in the Claimant's case. He also stated that in his view Mr Berridge was correct to consider possibility of a final written warning, but accepted his assessment that due to the seriousness of the Claimant's actions which he believed it been undertaken intentionally and his concern that it could happen again, summary dismissal was the correct course of action.
50. In her evidence the Claimant stated that during questioning by Mr Galindo at the investigation meeting she recalled that she started to produce lower figures than she expected from the FF machine. She asserted that she discussed the situation with two colleagues, Richard Widger and Ben Payne as she felt she had not received adequate training on the FF machine. She asserts that she was told by these gentlemen that what she was doing was fine and that she should carry on.
51. In her evidence and during the course of the appeal hearing the Claimant noted that neither Mr Widger or Mr Payne had been spoken to by Mr Galindo during the course of his investigation which she asserted was evidence that the investigation had not been conducted fairly. In his evidence Mr Galindo confirmed that he had not spoken to either of these gentlemen, but explained that the reason for this was the data of the test results did not reveal concerns with batches other than those tested by the Claimant. In the circumstances he did not consider that these individuals would be able to provide any additional information on the methodology adopted by the Claimant. This point was also covered in the appeal outcome letter where Mr Love stated "... *Although you asked for their opinion you never stopped the line or escalated any issues in accordance with the data set recording you took, therefore he felt they would not have added any value into the allegation that was being investigated against you.*"
52. In her testimony the Claimant admitted it was only after she was given notice of the fact that the Respondent was going to conduct an investigation into the anomalous readings that she had recorded that she went back to check what the PDS actually said. She asserts it was only at this point she became aware of the need for the three stage purge and the requirement to conduct the pressure testing for at least seven minutes. Notwithstanding this, rather than admitting at the outset that she had not read the PDS, she insisted that she had and was familiar with the requirement to

conduct the three stage purge and the seven minute pressure testing. She only admitted the truth during the course of the appeal hearing.

The Law

53. Section 94 of the Employment Rights Act 1996 (ERA 1996) gives employees the right not to be unfairly dismissed. Enforcement of this right is by way of complaint to an Employment Tribunal under s111 of the ERA 1996.

54. In such cases a Claimant must show that he or he was dismissed by a Respondent under Section 95 of the ERA 1996.

55. Guidance on whether a dismissal of an employee is fair or unfair is contained in Section 98 of the ERA1996 which provides that:

- (1) In determining for the purposes of this Part whether the dismissal of an employee is fair or unfair, it is for the employer to show—
 - (a) the reason (or, if more than one, the principal reason) for the dismissal, and
 - (b) that it is ... a reason falling within subsection (2) ...
- (2) A reason falls within this subsection if it ...
 - (b) relates to the conduct of the employee ...
- (4) Where the employer has fulfilled the requirements of subsection (1), the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer)—
 - (a) depends on whether in the circumstances ... the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and
 - (b) shall be determined in accordance with equity and the substantial merits of the case.

56. When an employee has been dismissed because the Respondent believes that they have committed gross misconduct, the test to be applied by the Tribunal to assess that belief was set out by the Employment Appeal Tribunal in British Home Stores Ltd. v Burchell [1980] I.C.R. 303. The EAT stated in relation to belief of misconduct:

First of all, there must be established by the employer the fact of that belief. In other words the employer must establish that it did believe it.

Secondly, that the employer had in his mind reasonable grounds upon which to sustain that belief.

And thirdly, we think, that the employer, at the stage at which he formed that belief on those grounds, ... had carried out as much investigation into the matter as was reasonable in all the circumstances of the case.

57. When considering the reasonableness of an employer's conduct it is imperative that the Tribunal does not substitute its views on for those of the employer. In Iceland Frozen Foods Ltd v Jones [1983] I.C.R. 17 the Employment Appeal Tribunal held that:

In judging the reasonableness of the employer's conduct an Industrial Tribunal must not substitute its decision as to what was the right course to adopt for that of the employer;

In many (though not all) cases there is a band of reasonable responses to the employee's conduct within which one employer might reasonably take one view, and another quite reasonably take another;

The function of the industrial Tribunal, as an industrial jury, is to determine whether in the particular circumstance of each case the decision to dismiss the employee fell within the band of reasonable responses which a reasonable employer might have adopted. If the dismissal falls within the band the dismissal is fair: if the dismissal falls outside the band it is unfair

58. On the amount of investigation required, the Court of Appeal held in J Sainsbury plc v Hitt [2003] I.C.R. 111 [at paragraph 30] that:

The range of reasonable responses test (or, to put it another way, the need to apply the objective standards of the reasonable employer) applies as much to the question whether the investigation into the suspected misconduct was reasonable in all the circumstances as it does to the reasonableness of the decision to dismiss for the conduct reason.

Decision

59. There is no dispute between the parties that the Claimant was dismissed.

60. It is the Respondent's case that the reason for dismissal was conduct which is a potentially fair reason under s.98(2) of the ERA 1996. All of the evidence starting with the discovery of the anomalous results in relation to the batch of testing in question through the investigative process and then ultimately the disciplinary process points unequivocally to a belief on the part of the Respondent of conduct issues on the part of the Claimant. No evidence was adduced for any other alternative explanation for the Claimant's dismissal. In his witness evidence Mr Hall-Stocker appeared to infer

that the Respondent was in some form of financial difficulties and that this may have been the reason why the Claimant was dismissed. However, on being pressed during cross-examination he conceded that this was just background information and what he was really in tending to highlight was a lack of trust at more junior levels in senior management. Having considered all of the evidence I am satisfied that gross misconduct was the reason for the Claimant's dismissal.

61. In assessing the veracity of the Respondent's case regarding the reason for dismissal the Tribunal is obliged to consider the three stage analysis set out in Burchell.

- a. Did the Respondent hold a genuine belief that the Claimant had been guilty of misconduct?
- b. Were there reasonable grounds for the Respondent to believe that the Claimant was guilty of misconduct?
- c. Was the belief that the Claimant had been guilty of misconduct based on a reasonable investigation of the circumstances?

62. In relation to the three stage analysis I find as follows:

- a. The Respondent conducted a detailed and careful investigation into the circumstances surrounding the anomalous readings recorded by the Claimant. After initially identifying the Claimant as the source of the anomalous readings she was put on notice of the investigation and provided with full details of its outcome as well as being given an opportunity to try to explain the anomalous and unrepeatable results that she had recorded. At this stage of the investigation the Claimant asserted that, although she was aware of the requirements of the PDS i.e. to conduct three purges and then run the FF testing for at least seven minutes, she had no means of measuring seven minutes and she was not aware of anybody else conducting testing who did so either. In response to this careful enquiries were made with other members of the testing team to ascertain how they timed the testing period of 7 minutes. When it transpired that these individuals had all either used a stop clock on the FF testing machinery or the clock on the wall to measure seven minutes, the Respondent quite reasonably determined that there was some case for the Claimant to answer.
- b. Both at the investigation meeting and during the disciplinary and appeal hearings the Claimant was allowed to be accompanied by Mr Hall-Stocker and was given advanced access to all of the investigation results and testing conducted by the Respondent. She was given adequate notice of the meetings and full access to other sources of help and assistance.
- c. During the course of the disciplinary hearing when confronted with the evidence that other individuals conducting testing had been using the stop clock on the

- FF machine or the wall clock, the Claimant changed her story to assert that she had been using the clock to time seven minutes, but that her anomalous results may be accounted for by the fact that during the night shift the door to the testing room open less frequently and was the case during the day. The disciplinary meeting was adjourned to allow further investigation of this defence. However, that investigation delved more deeply into what the Claimant had actually been doing and it determined unequivocally that not only had she not been conducting the pressure tests for at least seven minutes but she had also failed, on every occasion, to conduct the three stage purging.
- d. Prior to reconvening the disciplinary hearing the Claimant was given access to the results of these further investigations and time to consider their implications. During the course of the reconvened disciplinary hearing the Claimant changed her story once again reiterating that she had read the PDS and was familiar with it, but that she may have reverted to what she described as muscle memory during the course of the testing which is why she failed to follow the procedure set out in the PDS.
 - e. The only potential criticism of the investigation conducted by the Respondent was that they failed to interview the two individuals that the Claimant asserts she spoke to during the course of the testing when she alleges that she noticed anomalous readings and sought guidance from them as to what she should do. Mr Galindo's explanation for this was that the test results did not reveal concerns with other batches other than those tested by the Claimant. In those circumstances he did not consider that the individuals that she allegedly spoke to would be provide any additional information on the methodology adopted by the Claimant. In the appeal outcome letter Mr Love noted that although the Claimant allegedly asked for advice from the two individuals in question she never stopped the line or escalated any issues in accordance with the dataset recording that she took.
 - f. Overall I am satisfied that the weight of evidence against the Claimant regarding the manner in which she conducted the testing was such that any evidence that might have been adduced by interviewing these individuals is unlikely to have made any significant difference to the outcome of the investigation.
 - g. The evidence in the form of data recording exactly what the Claimant had done during the course of the testing was unequivocal. There is no doubt that she did not follow the requirements of the PDS notwithstanding the fact that, at least up until the end of the disciplinary hearing when she was dismissed, she asserted that she was familiar with the PDS, but simply could not account for the fact that she had not complied with its requirements. It was only during the course of the appeal hearing that she finally admitted that she had not read the PDS and was not aware of the requirement to conduct the three stage purging and a seven minute pressure test. She also admitted that she understood the

- reason why it was necessary to conduct careful testing of filters and that she was fully aware of the potential consequences both for end users of the product and the Respondent if faulty products or potentially faulty products were released to customers. In the light of this I find that the Respondent had reasonable grounds to believe that the Claimant was guilty of gross misconduct.
- h. Finally I must determine whether or not the Respondent genuinely believed that the Claimant was guilty of gross misconduct. As I have said above, the weight of the evidence establishing that the Claimant had failed to comply with the requirements of the PDS was overwhelming. Notwithstanding that in truth she had never read the PDS, during the course of the investigation and the disciplinary hearing she disingenuously persisted with the assertion that she had read PDS and was familiar with the requirement for the three stage purge and the seven minute pressure testing. When she finally admitted that she had not read the PDS during the course of the appeal hearing she gave no credible reason for not conducting the testing properly i.e. reading the PDS and familiarising herself with the testing requirements for the product. Although Mr Berridge did not give evidence (because he is no longer with the company) he sets out very clearly in the dismissal letter that he had serious concerns that if the Claimant was not dismissed there was a possibility that she might fail to conduct testing properly again in the future. Having read the dismissal letter as well as the appeal outcome letter and having heard evidence from Mr Love I am entirely satisfied that the Respondent genuinely believed that the Claimant was guilty of gross misconduct.
63. The next question I have to determine is whether the decision to dismiss was a fair sanction in the circumstances i.e. was it within the range of reasonable responses open to a reasonable employer when faced with these facts?
64. In relation to this issue I must remain mindful of the EAT decision in Iceland Frozen Foods Ltd v Jones [1983] I.C.R. 17. In other words in judging the reasonableness of the employer's conduct, I must not substitute my decision as to what was the right course to adopt for that of the Respondent.
65. In her testimony the Claimant admitted that she only read the PDS for the product in question once she became aware that investigation was being conducted into the anomalous readings she had recorded. However, rather than admitting that, she persisted with the assertion that she was familiar with the PDS and put forward fabricated explanations for the anomalous results. Unfortunately for the Claimant all of this resulted in was a more in-depth analysis of what she had actually done which served to establish unequivocally that she had failed to comply with the requirements of the PDS. Even at the appeal hearing, when she ultimately admitted the true position, she was unable to provide a credible explanation as to why she had not read the PDS as she was trained to do before undergoing the testing.

66. During cross-examination the Claimant also indicated clearly that she understood that testing of the filters to ensure that they met the required standard was imperative to ensure the safety of end-users of vaccines and other medical products. She also acknowledged that in the event that faulty products were released onto the market and caused difficulties for end-users there would be severe implications for the credibility of the Respondent as a supplier of high-quality products. She also acknowledged that by virtue of her conduct Respondent had been forced to destroy filters valued at approximately Euros185,000 because they could not be sure that they were in full compliance with the standards required.

67. I am satisfied that any reasonable employer confronted with an employee who:

- a. Without any reasonable explanation failed to comply with testing procedures which she had been trained to undertake thereby producing false readings;
- b. Was disingenuous about the reasons for the anomalous readings until the very last stage of the disciplinary process;
- c. Caused significant financial loss for the company because of her conduct along with potential for even more serious loss of reputation;

Would regard summary dismissal as within the range of reasonable responses open to it.

68. Finally I need to consider next whether the Respondent adopted a fair procedure when dismissing the Claimant. The procedure adopted by Respondent has been set out in detail earlier in my Judgment and so I do not intend to revisit that here. It is suffice to say that I am entirely satisfied that the procedure adopted by the Respondent in this instance was fair and reasonable. The only criticism that might be levelled against the Respondent was the failure to interview the individuals that the Claimant alleges she spoke to when conducting the testing because of concerns about the results she was getting. However, as I have stated above, I do not believe that speaking to these individuals would have made any material difference to the outcome of the investigation and thus is not a basis for challenging the fairness of investigation.

69. In line with the foregoing I find that the Claimant's claim for unfair dismissal is not well conceived and is dismissed.

70. As I have dismissed the claim for unfair dismissal claim for wrongful dismissal must also fall away because I have found that the Respondent was entitled to dismiss the Claimant summarily and without notice.

Judgment

71. The claim for unfair dismissal is not well conceived and is dismissed.

72. The claim for wrongful dismissal is not well conceived and is dismissed.

**Approved by
Employment Judge K Richardson
Date: 17 June 2026**

Judgment sent to the parties on
10 July 2026

Jade Lobb
For the Tribunal