



EMPLOYMENT TRIBUNALS

Claimant: Mr K Waterfield

Respondent: SE Trains Limited

Heard at: London South Employment Tribunal, Ashford (hybrid hearing)

On: 3 August 2026

Before: Employment Judge Abbott (sitting alone)

Representation

Claimant: representing himself

Respondent: Ms G Nicholls, counsel

RESERVED JUDGMENT ON PRELIMINARY ISSUE

1. The claimant's resignation on 2 April 2024 did not amount to a dismissal.
2. As a consequence of the finding in paragraph 1 above, the claim is dismissed.

REASONS

Introduction and conduct of the hearing

1. This is my reserved judgment on a preliminary issue in this claim, following a public preliminary hearing directed by EJ Harrington. The preliminary issue before me was "*whether the Claimant was dismissed by the Respondent on 2 April 2024*". The claimant accepted in discussions at the outset of the hearing that, if I was to find against him on this issue, the consequence was that none of the complaints in his claim could proceed.
2. There was some confusion over the mode of hearing. EJ Harrington had directed the hearing to take place in person in the Ashford hearing venue. On the working day before the hearing, the parties were informed by the Tribunal administration it had been converted to a video hearing. This was

evidently not made sufficiently clear to the claimant, who attended at the Ashford hearing venue on the morning of the hearing. No criticism can fairly be levelled at the claimant for doing so. In the event, we were able to proceed by a hybrid hearing, with the claimant and his McKenzie friend, Mr Cockram, present in Ashford, the respondent's representatives and witness joining by video from their own locations, and me joining by video from the Tribunal venue in Croydon – the only material impact being a slight delay to the hearing commencing.

3. During the hearing I heard oral evidence from the claimant and his wife, Mrs Waterfield, and from Mr Rickwood for the respondent. I also had a written statement from Mr Riddell on behalf of the claimant – Mr Riddell did not attend the hearing so his evidence was not tested, though Ms Nicholls indicated she would not have intended to cross-examine him in any event. I then heard oral submissions from Ms Nicholls and the claimant. There was not sufficient time for me to properly consider matters and deliver a reasoned decision on the day, so I reserved my judgment.

The law

Enforced resignation

4. It is the claimant's case that he suffered an enforced resignation which is to be regarded as a dismissal. It has long been established that if an employee is told that they have no future with an employer and are expressly invited to resign, then that employee is to be regarded as having been dismissed.
5. The principles to be considered in such circumstances were set out by the Court of Appeal in *Martin v Glynwed Distribution Ltd* [1983] ICR 511, CA. Sir John Donaldson MR said that:

"Whatever the respective actions of the employer and employee at the time when the contract of employment is terminated, at the end of the day the question always remains the same, "Who really terminated the contract of employment?". If the answer is the employer, there was a dismissal."

He went on to hold that this question was one of fact for the tribunal to decide in the circumstances of the particular case.

6. What starts off as an enforced resignation may become a voluntary one if the employee negotiates satisfactory financial terms and leaves because of them (see, e.g., *Sheffield v Oxford Controls Co Ltd* [1979] ICR 396, EAT, where the director of a company was threatened with dismissal if he did not resign, negotiations over a severance payment then followed and an agreement was drawn up and initialled - the EAT held that there had been no dismissal, because satisfactory terms of resignation had emerged, so that the threat of dismissal was no longer the operative factor in the director's decision to resign). However, not all negotiated termination payments will give rise to a finding of mutually agreed termination. In *Sandhu v Jan de Rijk Transport Ltd* [2007] ICR 1137, CA, the Court of Appeal held that an employment tribunal had reached a perverse decision when finding that an employee had voluntarily resigned after agreeing severance terms at the same meeting at which the employer told him that

he was being dismissed. The company had decided that S should be dismissed following allegations of misconduct and he was summoned to attend a meeting for this purpose, although he was not informed in advance about the allegations against him or the purpose of the meeting. The company's managing director opened the meeting by telling S that he was being dismissed. S then negotiated three months' extra salary and the short-term retention of his company car. Lord Justice Wall noted that in no reported judgment had an employee legally resigned during the same meeting or interview at which the employer had first raised the possibility of dismissal.

Approach to assessment of the evidence

7. In a case like this where there are competing accounts of what happened on 2 April 2024, I have found it useful to remind myself of the guidance provided by Mr Justice Leggatt (as he then was) in *Gestmin SGPS SA v Credit Suisse (UK) Ltd & Anor* [2013] EWHC 3560 (Comm) on the assessment of evidence based on recollection. *Gestmin* was a commercial dispute, but the principles apply equally to other cases involving factual disputes. I set out Leggatt J's guidance in full – it is how I have approached the evidence in this case.

“15. An obvious difficulty which affects allegations and oral evidence based on recollection of events which occurred several years ago is the unreliability of human memory.

16. While everyone knows that memory is fallible, I do not believe that the legal system has sufficiently absorbed the lessons of a century of psychological research into the nature of memory and the unreliability of eyewitness testimony. One of the most important lessons of such research is that in everyday life we are not aware of the extent to which our own and other people's memories are unreliable and believe our memories to be more faithful than they are. Two common (and related) errors are to suppose: (1) that the stronger and more vivid is our feeling or experience of recollection, the more likely the recollection is to be accurate; and (2) that the more confident another person is in their recollection, the more likely their recollection is to be accurate.

17. Underlying both these errors is a faulty model of memory as a mental record which is fixed at the time of experience of an event and then fades (more or less slowly) over time. In fact, psychological research has demonstrated that memories are fluid and malleable, being constantly rewritten whenever they are retrieved. This is true even of so-called 'flashbulb' memories, that is memories of experiencing or learning of a particularly shocking or traumatic event. (The very description 'flashbulb' memory is in fact misleading, reflecting as it does the misconception that memory operates like a camera or other device that makes a fixed record of an experience.) External information can intrude into a witness's memory, as can his or her own thoughts and beliefs, and both can cause dramatic changes in recollection. Events can come to be recalled as memories which did not happen at all or which happened to someone else (referred to in the literature as a failure of source memory).

18. Memory is especially unreliable when it comes to recalling past beliefs. Our memories of past beliefs are revised to make them more consistent with our present beliefs. Studies have also shown that memory is particularly vulnerable to interference and alteration when a person is presented with new information or suggestions about an event in circumstances where his or her memory of it is

already weak due to the passage of time.

19. The process of civil litigation itself subjects the memories of witnesses to powerful biases. The nature of litigation is such that witnesses often have a stake in a particular version of events. This is obvious where the witness is a party or has a tie of loyalty (such as an employment relationship) to a party to the proceedings. Other, more subtle influences include allegiances created by the process of preparing a witness statement and of coming to court to give evidence for one side in the dispute. A desire to assist, or at least not to prejudice, the party who has called the witness or that party's lawyers, as well as a natural desire to give a good impression in a public forum, can be significant motivating forces.

20. Considerable interference with memory is also introduced in civil litigation by the procedure of preparing for trial. A witness is asked to make a statement, often (as in the present case) when a long time has already elapsed since the relevant events. The statement is usually drafted for the witness by a lawyer who is inevitably conscious of the significance for the issues in the case of what the witness does nor does not say. The statement is made after the witness's memory has been "refreshed" by reading documents. The documents considered often include statements of case and other argumentative material as well as documents which the witness did not see at the time or which came into existence after the events which he or she is being asked to recall. The statement may go through several iterations before it is finalised. Then, usually months later, the witness will be asked to re-read his or her statement and review documents again before giving evidence in court. The effect of this process is to establish in the mind of the witness the matters recorded in his or her own statement and other written material, whether they be true or false, and to cause the witness's memory of events to be based increasingly on this material and later interpretations of it rather than on the original experience of the events.

21. It is not uncommon (and the present case was no exception) for witnesses to be asked in cross-examination if they understand the difference between recollection and reconstruction or whether their evidence is a genuine recollection or a reconstruction of events. Such questions are misguided in at least two ways. First, they erroneously presuppose that there is a clear distinction between recollection and reconstruction, when all remembering of distant events involves reconstructive processes. Second, such questions disregard the fact that such processes are largely unconscious and that the strength, vividness and apparent authenticity of memories is not a reliable measure of their truth.

22. In the light of these considerations, the best approach for a judge to adopt in the trial of a commercial case is, in my view, to place little if any reliance at all on witnesses' recollections of what was said in meetings and conversations, and to base factual findings on inferences drawn from the documentary evidence and known or probable facts. This does not mean that oral testimony serves no useful purpose – though its utility is often disproportionate to its length. But its value lies largely, as I see it, in the opportunity which cross-examination affords to subject the documentary record to critical scrutiny and to gauge the personality, motivations and working practices of a witness, rather than in testimony of what the witness recalls of particular conversations and events. Above all, it is important to avoid the fallacy of supposing that, because a witness has confidence in his or her recollection and is honest, evidence based on that recollection provides any reliable guide to the truth.”

Findings of fact

8. I have only made findings that are relevant to the issue that I had to

determine today. I have considered the oral evidence and all of the documents referred to in the evidence and during the course of the hearing, even if I do not specifically mention them all, assigning such weight to each individual piece of evidence as I considered to be appropriate.

9. My factual findings are as follows. References to the hearing bundle are in the form [x].
10. The claimant was employed by the respondent as a Train Driver & Driver Instructor. At all material times, he was line managed by the Driver Manager at the respondent's Gillingham depot, Craig Rickwood.
11. Between 15 October 2022 and 17 July 2023, the claimant was off work sick having developed a severe skin rash which was diagnosed as being an adverse reaction to the COVID vaccine. His absence was managed in line with the respondent's capability policy.
12. Following successful treatment with methotrexate, the claimant was able to return to work in July 2023. However, around the time of his return, the claimant failed a periodic medical visual assessment, meaning he was unable to return to full duties. He was referred for occupational health advice, and a report was produced on 19 September 2023 [139-141]. As to his eye conditions, the report said this:

"His eyes have been giving him symptoms in that he has had difficulties with his vision and failed his periodic medical visual assessment in July. He had new glasses prescribed prior to this assessment and these actually made his vision worse. He was referred to the diabetic clinic by the optician and had an assessment on 4 and 13 September 2023. The last assessment on 13 September 2023 confirmed that he has a significant condition affecting both eyes. The left eye has a small bleed which requires laser treatment and the right eye needs injections to treat fluid accumulated in the eye. He has not got a confirmed date for this treatment yet but it is likely to be in late October. My understanding is that this treatment would be to resolve both conditions but he may require more than one session of treatment and I will await the specialist report on this."
13. In terms of fitness for work, the OH recommendation was that the claimant was fit for work on non-train driving duties and could work his usual hours. A further OH referral was to be requested once the claimant had had his eye treatments to consider fitness to return to train driving duties (it being anticipated this would be possible). The following discussion was also noted:

"He is currently employed to work full time and he is sixty eight years old. I did discuss with him whether he wants to consider looking at reducing his hours, if this is operationally and financially feasible. This will allow him to prioritise his health and keep working which he enjoys."
14. The claimant did subsequently make a part-time working request [142], though this was not accepted.
15. Following this OH report, the claimant was placed in a temporary role in the Revenue and Crime Enforcement Team, reviewing CCTV to collect digital evidence and track individuals who evaded fares. Alongside this, he continued to do other knowledge-related work (bulletins, safety notices, 'red'

videos etc) to ensure he was up-to-speed and able to return to driving duties as soon as his eye condition was resolved [148].

16. As he was not able to carry out his contracted duties, he continued to be managed under the respondent's capability policy. For example, a "stage 2" attendance at work meeting was held on 6 December 2023 [172].
17. A further OH assessment took place on 12 December 2023. The report produced that day [151-154] recorded the following in respect of his treatments:

"Mr Waterfield reported that he was diagnosed with macular degeneration in both of his eyes in July 2023 following a retinal scan investigation. He is under the care of the ophthalmologists and is currently receiving treatment for this condition. So far, he reported that he has had laser treatment on his left eye only on 12 October and 8 December. He informed me that on his right eye he has had injection treatment only 21 October and 22 November and that his specialist will decide whether they give him laser treatment on his right eye. At this point in time, Mr Waterfield informed me that he is halfway through treatment for his macular degeneration condition and that in his view his vision is improving. Mr Waterfield informed me that he is due to have another injection treatment in his right eye on 22 December 2023 and either on 19 or 29 January 2024 he will have another injection in his right eye. Mr Waterfield reported that he will likely know in the New Year whether a decision has been made to give him laser treatment in his right eye."

18. In terms of recommendations:

"Based on my assessment and the information available to me, in my opinion Mr Waterfield is medically fit for work with limitations as he is currently going through treatment for his macular degeneration condition.

[...] from the macular degeneration perspective, he is not fit to resume train driving/safety critical duties as he is still going through treatment and needs to complete this. He is advised to refrain from undertaking train driving/safety critical duties at this time. Once his treatment is completed he will need to undergo vision testing with Specsavers to acquire his new glasses. Once he has received his new glasses, he will need testing of his vision in OH with a nurse to determine if he meets the vision standards to resume train driving/safety critical duties. Mr Waterfield has been advise that he should bring medical reports authored by the ophthalmologist detailing his macular degenerative condition, effectiveness of treatment and the long term outlook to his next OH appointment. I advise that you arrange vision testing with a nurse in OH on the same day that you book his next OH appointment with a doctor so that the vision testing results and his ophthalmologist's report can be reviewed by the doctor. Mr Waterfield has been provided with a 'Distance and Near Vision for Railway Work' for his ophthalmologist to complete. He should bring this to his next OH appointment.

In the interim, he can continue with non-safety critical duties only. I anticipate that this is likely to be a temporary restriction/adjustment to his role until we have confirmed that his vision meets the standards to resume train driving and safety critical duties. I suggest that you consider putting this adjustment/restriction in place in the first instance for the next three months."

19. The claimant remained in his temporary CCTV role following this report.
20. In light of the three-month review recommendation in the December 2023

OH report, Mr Rickwood took steps in mid-March 2024 to arrange a further capability review meeting with the claimant in the first week of April 2024. I accept Mr Rickwood's evidence that the timing of this meeting was uninfluenced by any impending change of law on flexible-working requests – rather, he was simply following the OH guidance.

21. Following an exchange of text messages to confirm a date [265], Mr Rickwood prepared a formal invite letter. That letter [127] was emailed to the claimant on 22 March 2024 [125] and a hard copy placed in the claimant's pigeonhole. The letter stated the date, time and place of the meeting, set out the purpose of the meeting as quoted below, and explained the claimant had a right to be accompanied by a fellow employee or trade union representative.

"The meeting has been arranged to discuss the Occupational Health Medical Officer's report, your medical restrictions, and the effect of this in relation to your employment within the Company. During the meeting, a decision may be made with regard to your future employment. This could be either suitable alternative employment, subject to availability and capability, or termination of employment on the grounds of capability."

22. Whilst I accept the claimant's evidence that he did not even open the hard copy, I find he did receive and read the copy sent by email. That is made clear in his text message to Mr Rickwood on 25 March 2024 at 11:07:58:

"Morning Craig

Just seen the email.

Yes I will definitely want union representation at the meeting.

Paul has said he just needs release and he can be there.

Any problems with him like the last time and I would definitely need a postponement as I will not attend without a representative.

Cheers for now.

Keith"

23. I also find that the claimant appreciated that this was a meeting that may have consequences for his employment (including, potentially, dismissal). That is why he was insistent on needing representation, having regard to the fact that he had not been represented at the most recent capability meeting - the stage 2 meeting on 6 December 2023 [172].
24. The claimant organised to be represented at the capability meeting, scheduled for 2 April 2024, by Paul Dennis of the RMT union. He met with Mr Dennis and another colleague, Mr Riddell, for breakfast prior to the meeting at which, I find, there was no substantive discussion of possible outcomes from the meeting.
25. I find, however, that by the time that the claimant and Mr Dennis arrived at the Gillingham depot building at around 09:45, the claimant and Mr Dennis had had some discussion about the possibility that the claimant's

employment may be terminated. That is entirely to be expected – a Union representative appearing at a capability meeting where termination of employment is a possible outcome (as was confirmed in the invite letter) would be negligent not to discuss that possibility with their client. It is also evident, and I find, that the claimant and Mr Dennis had concrete discussions about the options open to the claimant to protect his position. This is clear in the text messages that the claimant sent to Mrs Waterfield at 09:49, 09:50 and 09:51:

“Just going in ... looking at 12 weeks notice .. the money for that period goes in in one hit next pay day so 4 months money, I do not work another day Phone will be off, will let you know ASAP

Paul is in with Jenny now

You definitely keep your travel me and you100%”

26. The only reasonable interpretation of these messages is that the claimant and Mr Dennis had discussed and agreed that, if termination was being pursued, the claimant would be better off resigning and seeking a payment in lieu of notice pay (that being the reference to 12 weeks) and, on the basis it would be a retirement not dismissal, the claimant and his wife would retain the right to a discounted travel pass. I also find that the claimant must have instructed Mr Dennis to go and explore this option with the panel (Mr Rickwood and the Area HR Manager, Jenny Li – to whom the claimant referred in his message to Mrs Waterfield) ahead of the formal meeting commencing, so long as dismissal was a possible outcome. That is consistent with the claimant's position that he had not arrived that day necessarily intending to resign, also consistent with the messages that show the claimant was contemplating resigning if the alternative was a risk of him being dismissed.
27. A discussion did take place at around 09:50 between Mr Dennis, Mr Rickwood and Ms Li. I had the benefit of Mr Rickwood giving live evidence at the hearing, as well as a written statement from Ms Li written by her on 18 April 2024 [136-138], albeit that she did not give live evidence at the hearing so I had to take account of that in weighing up her evidence. The claimant did not call Mr Dennis to give evidence on his behalf; nor did the respondent. On the balance of the evidence, I make the following findings about that discussion, which are essentially consistent with the evidence of Mr Rickwood and Ms Li:
 - a. Mr Dennis explained that, if dismissal was a possible outcome of the meeting, the claimant would like to resign instead of the meeting going ahead.
 - b. Ms Li explained that the claimant could resign at any point if he wished to, that no decision had been made as to the claimant's future but that (consistent with the invite letter) dismissal was a possible outcome. I accept Mr Rickwood (and Ms Li's) evidence that it was made clear to Mr Dennis that a decision in relation to dismissal had not been made.
 - c. Ms Li explained that, to stop the meeting going ahead, the claimant

would have to resign with immediate effect.

- d. Mr Dennis explained that resigning by way of retirement would be more favourable to the claimant than being dismissed because he would remain eligible for a retired travel pass.
- e. Mr Dennis asked if the respondent would be willing to pay some of the claimant's pay in lieu of notice and Ms Li agreed to consult the Head of Employee Relations on that.

28. Mr Dennis then returned to speak to the claimant at around 09:55. The claimant was adamant in his evidence that Mr Dennis said to him "*They are going to dismiss you*", before briefly talking about trying to negotiate additional pay in lieu of notice before leaving the room again. I do not consider the claimant to be consciously giving false evidence on this point – that is evident from the message he sent to Mrs Waterfield at 09:57:

"Believe it or not .. they are going for DISMISSAL .. phone calls are being made .. Paul has said let him resign and go with honour .. instantly there is an unfair dismissal case to answer .."

29. There are, it seems to me, therefore two possibilities here: either Mr Dennis did say what the claimant says he said (in which case he was not faithfully communicating what he had been told by Ms Li) or what Mr Dennis said was something to the effect that dismissal remained on the table and the claimant misconstrued that to mean he was going to be dismissed. On balance, I consider the second of these to be more likely – that is also consistent with my findings about the earlier discussion between the claimant and Mr Dennis regarding the approach to take if dismissal remained a possible outcome.
30. Mr Dennis then returned to speak with Mr Rickwood and Ms Li, and was informed by Ms Li that if the claimant wanted to resign that was his choice, and the respondent would pay six weeks' notice and his resignation would be processed as a retirement and he would keep his right to apply for a travel pass.
31. Mr Dennis took this offer to the claimant. There must have been some discussion about it between the claimant and Mr Dennis (though the claimant does not specifically address it in his evidence – it is more likely than not that Mr Dennis drove that discussion), which led to Mr Dennis returning to Mr Rickwood and Ms Li to ask for eight weeks' notice paid in lieu rather than six weeks, to which Ms Li agreed.
32. Mr Dennis then took this revised offer back to the claimant. The claimant's evidence was that he categorically stated to Mr Dennis that he did not wish to resign. I do not accept that evidence. It is not consistent with the messages exchanged earlier that morning that expressly contemplated resignation in order to avoid a risk of dismissal.
33. What then followed was a meeting between the claimant, Mr Dennis, Mr Rickwood and Ms Li. I accept Mr Rickwood's evidence that it was not a formal meeting, because it had been made clear to him and Ms Li by Mr Dennis that the claimant wished to resign. For that reason, Mr Rickwood

had stood down the intended notetaker, Ms Found (see his message sent to her at 10:23 that was produced during the hearing). There is competing evidence as to what happened at that meeting from the claimant and from Mr Rickwood (and, in her written statement only, Ms Li). On balance, I prefer the evidence of Mr Rickwood. I find that:

- a. Ms Li did not tell the claimant he could resign or be dismissed.
 - b. Ms Li did not tell the claimant he would not be afforded time to find other work within the respondent's organisation.
 - c. Ms Li did not seek to deny the claimant's entitlement to back pay as negotiated by his Union.
 - d. There were no further private discussions between Mr Rickwood, Ms Li and Mr Dennis excluding the claimant.
 - e. As the claimant had not prepared a letter of resignation, a piece of blank paper was taken from a printer and handed to the claimant. The claimant asked for guidance on what to write, which Ms Li provided.
 - f. The claimant then wrote and signed his letter of resignation [128]. Ms Li did not say "*are you going to sign it or what*".
 - g. The claimant was not in a "state of despair". Rather, consistent with his earlier messages with Mr Dennis, he was content to take the option to resign/retire rather than run the risk that he might be dismissed if the capability meeting went ahead.
34. The claimant subsequently exchanged cordial text messages with Mr Rickwood on the evening of 2 April 2024, 3-6 April 2024 and 10 April 2024 [266-268]. The general tenor of these messages is consistent with my findings in respect of the events of 2 April 2024, *i.e.* that the claimant had consensually resigned rather than run the risk of dismissal. The same can be said in respect of a post the claimant made on Facebook later on 2 April 2024 which does not indicate any dissatisfaction with his decision to retire [134].
35. It is evident though that, by 8 April 2024, the claimant had reflected on what had happened and was no longer happy with how things had played out. This can be seen in messages he sent to Mr Dennis from 8 April 2024 [198-247] after, it appears, the claimant had taken advice on employment law from a friend. This led to the claimant emailing Mr Rickwood on 11 April 2024 [132-133] raising concerns about what had happened, which can be summarised as follows:
- a. That he had no advance warning this was a dismissal meeting.
 - b. That the timing of the meeting was questionable, given the claimant was due to have an eye test the following week and due to changes in flexible-working law coming into force just 4 days after the meeting was to take place.

- c. That the OH reports were not discussed.
 - d. That the claimant had received a “good luck on retirement” message from a colleague who apparently knew the outcome before it happened.
36. I note that the claimant’s email does not contain any of the allegations about what was said by Ms Li or Mr Dennis in the course of the morning of 2 April 2026.
37. Mr Rickwood responded on 16 April 2024 [131] as follows:
- “Dear Keith
- Thank you for your email.
- I can confirm that you were invited to a meeting on 2nd April 2024 under the medical capability policy of which you had previously been provided a copy of. The meeting invite dated 22nd March 2024 stated that one outcome of this meeting could be termination of employment on the grounds of capability.
- The meeting did not start as your RMT representative came to speak to both myself and Jenny Li, Area HR Manager and stated that you wished to resign from your position at Southeastern and if you did would this stop the meeting taking place. We explained that there was no predetermined outcome of the meeting but if you wished to resign then we would accept the resignation and not continue with the medical capability meeting.
- You provided me with a hand written resignation letter that you wrote and signed. I accepted your resignation and we arranged for you to return your outstanding equipment to me, which you did the next day.
- I am sorry that you feel aggrieved, but it was your decision to resign from your position at Southeastern and if you wish to seek legal advice that is your prerogative.
- Kind Regards”
38. That Mr Rickwood’s account of events in this contemporaneous email is essentially consistent with his evidence to the Tribunal fortifies the conclusions I have reached as to what happened.
39. ACAS Early Conciliation was commenced on 18 April 2024 and ended on 30 May 2024. The claim was presented on 5 August 2024, though the detail of the claimant’s account of what happened on 2 April 2024 was not provided until 8 March 2026 in response to a direction of EJ Harrington [38-42].

Application of the law to the facts

40. As already explained, the key question for me to answer is “Who really terminated the contract of employment?” On the basis of my factual findings as set out above, the clear answer in this case is the claimant. The claimant decided to resign/retire because he did not want to risk proceeding with a capability meeting that could have led to his dismissal – that outcome was preferable for him financially (as he negotiated an acceptable term of

payment in lieu of notice by way of goodwill, plus ongoing entitlement to a retired travel pass) as well as reputationally (in terms of avoiding the stigma of a dismissal).

41. I have found that, at no point, was the claimant told by the respondent that he would be dismissed if he didn't resign. Insofar as that was what the claimant understood from what Mr Dennis had said to him, that was an error either on his part or on Mr Dennis's part for not being clear as to what Ms Li had said (i.e. that dismissal was an option, but that no decision had yet been made). Either way, it was not because of the actions of the respondent. Accordingly, this is a very different case to *Sandhu* in a number of ways – particularly (a) because the claimant had prior notice that dismissal was a possible outcome from this meeting and (b) because the claimant was never told by the respondent that he was going to be dismissed if he didn't resign.
42. It follows, therefore, that the claimant's resignation on 2 April 2024 did not amount to a dismissal.
43. In light of the claimant's acceptance in discussions at the outset of the hearing that, if I was to find against him on the dismissal issue, none of the complaints in his claim could proceed, the claim is dismissed and the final hearing listed for 7-11 December 2026 will not go ahead.

Approved by:

Employment Judge Abbott

Date: 12 August 2026

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<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>