



EMPLOYMENT TRIBUNALS

Claimant: Mr J Wilson

Respondent: Nottingham City Council

Heard at: Nottingham **On:** 22 July 2026

Before: Employment Judge Michael Butler (sitting alone)

Appearances

Claimant: In person

Respondent: Mr Kanda, Counsel

JUDGMENT

The claim of unfair dismissal is not well-founded and is dismissed.

WRITTEN REASONS

Background

1. The final hearing in this case took place on 22 July 2026. At the conclusion of the hearing, I gave oral judgment and confirmed then, and in writing on the judgment sent to the parties, that full written reasons would not be sent unless either party requested them under Rule 60 of the Tribunals Rules of Procedure 2024. The Claimant requested written reasons by email on 28 July 2026.

2. The Claimant presented his claim form on 19 August 2025 following a period of early conciliation between 26 June and 1 August 2026. He was employed by the Respondent, a Local Authority, as a building cleaner from 5 December 2001 until his dismissal for gross misconduct on 5 June 2025. His usual place of work was Loxley House although he did from time to time work at other locations as directed by the Respondent.

3. The Claimant brings a claim for unfair dismissal only. He says the outcome of the disciplinary hearing was predetermined, the request made for him to work at

another location was inadequately communicated and the work he was instructed to carry out did not fall within his remit. The Respondent defends the claim on the ground that the Claimant was given a reasonable management instruction by his Line Manager which he refused to comply with.

4. The hearing was initially due to be heard on 3 February 2026 with a time estimate of one day. At the hearing, Employment Judge McTigue dealt with the Respondent's application to postpone as the precise details of the claim were not readily identifiable. EJ McTigue converted the hearing to a preliminary hearing at which the Claimant confirmed he was bringing a claim of unfair dismissal only, The issues were clarified and orders for the final hearing were made. Hence the hearing came before me on 22 July 2026.

The issues

5. The issues agreed between the parties guided by EJ McTigue are:

6. What was the reason or principal reason for dismissal? The Respondent says it was conduct. The Tribunal will need to decide whether the Respondent genuinely believed the Claimant had committed misconduct.

7. If the reason was misconduct, did the Respondent act reasonably in all the circumstances in treating that as a sufficient reason to dismiss the Claimant? The Tribunal will usually decide, in particular, whether:

7.1 there were reasonable grounds for that belief;

7.2 at the time the belief was formed, the Respondent had carried out a reasonable investigation;

7.3 the Respondent otherwise acted in a procedurally fair manner; and

7.4 dismissal was within the range of reasonable responses.

The evidence

8. I heard oral evidence from the Claimant and, for the Respondent, from Ms Lucy Thorne, FM Team Leader and the Claimant's Line Manager, and Mr Alvin Henry, Assistant Director of Waste and Cleansing Services and the Appeal Officer.

9. There was an agreed bundle of documents and references to page numbers in this judgment are to page numbers in that bundle.

The facts

10. In relation to the issues, I find the following facts on the balance of probabilities:

10.1 The Claimant was appointed to the role of cleaner with the Respondent on 5 December 2001. He was mainly instructed to work in Loxley house. His job description does not provide for him to work in that one location (page 170) but

part of his job was to work at different locations within Nottingham City (page 172) which he did from time to time.

10.2 On 21 March 2025 there was a power failure at Loxley House rendering it unsafe to work within that building. It also meant that the team of cleaners could not work there. Further, as access was prohibited, communication by email and land line telephones was not possible. Ms Thorne, as team leader of a group including cleaners, sent a text to individual cleaners, including the Claimant, directing them to work at different locations that day

10.3 The Claimant was instructed to report to Broadmarsh car park, a very short distance from Loxley House involving about a 3 minute walk. The Claimant still continued to Loxley House where he found it closed. He then went to Broadmarsh car park and reported to Mr Charles Amoabil who was the cleaner in charge. The Claimant refused to work in the car park telling Mr Amoabil that working there was not like for like work with working in Loxley House. Mr Amoabil offered the Claimant several alternative areas of the car park in which to work but he refused them all. Mr Amoabil walked around the site of the car park with the Claimant to show him these other areas. One of them was the Bus Station where the Claimant had previously worked without any issues. The Claimant then said this was not his job and said he was going home, which he then did.

10.4 Ms Thorne later asked HR for assistance in dealing with the Claimant's refusal to follow a reasonable management instruction, something he had previously been disciplined for (page 102-3). Ms Peace wrote to the Claimant on 27 March advising him that there would be an investigation and she gave Ms Peace's letter to the Claimant along with a copy of the Respondent's disciplinary policy. Ms Thorne was appointed as the Investigating Officer.

10.5 On 30 April, Ms Thorne wrote to the Claimant inviting him to an interview as part of her investigation on 6 May. The Claimant failed to attend the meeting and, when approached by Ms Thorne at work to ask why he had not attended the interview, he said he did not want to and would not attend any rearranged interview.

10.6 Ms Thorne presented her report to Ms Peace on 9 May (page 120-127) who decided that a disciplinary hearing was appropriate. The Claimant was invited to attend by letter dated 9 May (page 117-118) but he chose not to attend and it was rearranged for 5 June (page 179). The Claimant refused to attend. Ms Peace decided that dismissal was appropriate in the circumstances on the ground of misconduct, the Claimant having been told the disciplinary hearing would continue in his absence if he failed to attend. Ms Peace twice tried to contact the Claimant during the disciplinary hearing but he failed to answer the calls and told Ms Thorne the next day when she met him when he arrived at work that he had been eating his lunch.

10.7 The Claimant appealed the decision to dismiss him on 23 June (page 189-190) and the appeal held on 10 July was conducted by Mr Henry who sought and

received the Claimant's permission to review occupational health reports the later of which said he was fit to carry out his role and no adjustments were necessary.

10.8 The Claimant's grounds of appeal were:

10.8.1 the lack of proper communication and role of clarity;

10.8.2 he believed the decision was not proportionate to the allegation;

10.8.3 he was asked by text at short notice to work at Broad Marsh Bus Station and car park which he believed was improper and discourteous;

10.8.4 the caretaking duties at these locations differ significantly from domestic cleaning roles and required specific training (e.g a site induction); and

10.8.5 at times he struggles with his memory and finds communication challenging.

11. Mr Henry considered all of the appeal points noting in particular that the Claimant's job description specifically requires a flexible attitude to work duties and location and to be prepared to work at other cleaning locations within the City boundary. The appeal was dismissed and this decision communicated to the Claimant by letter dated 14 July 2025 (page 206-208).

Submissions

12. I considered the Claimant's oral submissions where he said the decision to dismiss was out of proportion, he was not ready for the job in the Broadmarsh Car Park, it was not acceptable to send a text message like that and he did not fancy being with the public (walking through the car park) as he was not used to it.

The law

1.3 S.98(1) of the Employment Rights Act 1996 ("ERA") provides that it is for the employer to show the reason for dismissal and that it falls within the reasons set out in s.98(2) which includes conduct. If this is established by the employer, S.98(4) provides that whether the dismissal is fair or unfair depends in the circumstances (including the size and administrative resources of the employer's undertaking) on whether the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee and this shall be determined in accordance with equity and substantial merits of the case.

Conclusions

14. The Claimant's evidence in this case was inconsistent with the duties specified in his job description. He also raised issues that were irrelevant to the issues in the case. For example, he said under cross-examination that an

employer has a duty to ensure the premises employees work in are safe but then did not apply this statement to the issues to be determined. He confirmed that he could be asked to work in a different location if his usual place of work was unsafe – as it was in this case. He also confirmed that his job description did not specify that he must only work in one location and he acknowledged that it was part of his job to work at different locations in the City to carry out his cleaning duties.

15. The Claimant further acknowledged that he had previously worked at Broadmarsh Bus Station which was one of the options given to him by Mr Amoabil and which he refused. He also accepted that officers of the Respondent had communicated with him by text message previously. In this hearing, however, he said the instruction was not reasonable because Broadmarsh Car Park was "out of my bounds" and it was not reasonable to have contacted him by text "on this occasion". This argument must be treated with a high degree of circumspection. It is clear that the Claimant received the text message, understood it and acted upon it by reporting to the Broadmarsh Car Park. Accordingly, his apparent opinion that communication by text message on this occasion was somehow inappropriate or discourteous is difficult to understand.

16. In relation to the disciplinary process, the Claimant confirmed he made the decision not to engage with either the investigation interview or the disciplinary hearing. When he was contacted after failing to attend the disciplinary hearing, he even confirmed that if it was rearranged he would not attend it either. He also confirmed he was told that if he did not attend the hearing would go ahead in his absence. Whilst he did engage in an appeal, he said in response to Mr Kanda's question on the point that "the outcome sounded reasonable".

17. I remind myself of the judgments in **Sainsbury's Supermarkets Limited v Hitt [2002] EWCA Civ 1588** and **British Home Stores Limited v Burchell [1978] IRLR 379**. Following Burchell, I have to assess whether the Respondent had a reasonable belief in the misconduct alleged, whether that belief was maintained after a reasonable investigation and whether the decision to dismiss fell within the range of responses of a reasonable employer.

18. The first limb of the Burchell test is clearly satisfied. Of his own volition, the Claimant effectively walked off the job after refusing a reasonable instruction from his line manager to work at a location which was quite clearly within his job description. There then followed an investigation with which the Claimant refused to engage. The Respondent tried to persuade him to attend an interview but he refused. Consequently, the only report before the disciplining officer was that of Ms Thorne. I cannot see that the Respondent could have done more. The Sainsbury's case held that an investigation of misconduct must be a reasonable one and within the confines imposed by the Claimant's failure to engage, that test is satisfied.

19. The third limb of Burchell provides that the decision to dismiss must fall within the range of responses of a reasonable employer. In the light of the

Claimant's own admissions and the attempts made by the Respondent to engage with him, I find that the third limb of Burchell is satisfied. Indeed, I consider that a reasonable employer would have had little option but to dismiss.

20. In relation to the appeal, the Claimant, for the first time, engaged in the disciplinary process. As his own admissions before me testify, the first four grounds of appeal did not convince Mr Henry that the decision to dismiss was wrong. It is perfectly clear from the outcome letter that Mr Henry took these grounds of appeal seriously and listened carefully to what the Claimant had to say about them. The fifth ground introduced poor memory and communication issues for the first time. Mr Henry took this seriously and studied the occupational health reports obtained for the Claimant. They confirmed he was fit to carry out his duties without adjustments. The appeal conducted by Mr Henry was comprehensive and the outcome well reasoned, as evidenced by the Claimant's own evidence that the outcome sounded reasonable.

21. For the above reasons, the claim of unfair dismissal is not well-founded and is dismissed.

Approved by:

Employment Judge M Butler

On: 3 August 2026

JUDGMENT & REASONS SENT TO THE PARTIES ON

.....14 August 2026.....

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FOR THE TRIBUNAL OFFICE