



EMPLOYMENT TRIBUNALS

Claimant: Mr C Greenwood

Respondent: Southern Electric Power Distribution plc

Heard at: Reading (by video) **On:** 27, 28 and 29 May 2026

Before: Employment Judge Hawksworth

Appearances:

The claimant: represented himself

For the respondent: Ms K Norval (solicitor)

JUDGMENT having been sent to the parties on 1 July 2026 and written reasons having been requested in accordance with rule 60(4B) of the Employment Tribunals Procedure Rules 2024, the following written full reasons are provided under rule 60(4E).

FULL REASONS

1. Judgment and oral summary reasons were given at the hearing on 29 May 2026. The written judgment was approved by me on 29 May 2026 and sent to the parties on 1 July 2026. The claimant requested written reasons on 10 July 2026. I was made aware of his request on 22 July 2026.
2. I have decided that it is appropriate to provide written full reasons under rule 60(4E) of the Employment Tribunals Procedure Rules 2024.

Introduction – claim, issues and hearing

3. This was a complaint of unfair dismissal. The claimant presented his claim on 29 April 2024. The respondent presented its response on 2 July 2024.
4. The issues for me to decide were set out in an agreed list of issues. It was a complaint of ordinary unfair dismissal in which the respondent said the reason for dismissal was the claimant's conduct.
5. The hearing took place by video at Reading employment tribunal on 27, 28 and 29 May 2026. It was originally scheduled to be a four day hearing but the hearing was reduced to three days for judicial resourcing reasons.

6. There was an agreed bundle which ran to page 512. There was also an updated schedule of loss and the joint list of issues.
7. After reading the witness statements, on day one I heard evidence from the claimant. Since leaving the respondent, the claimant has moved to Australia. He attended the hearing from there. Appropriate permissions were in place to permit him to give evidence from Australia.
8. On day two I heard evidence from the claimant's witness Terry Donaldson, a former colleague, and from the respondent's witnesses, managers Paul Cowdale and Hayley Joynson.
9. Closing comments were made on the afternoon of the second day. The respondent's solicitor and the claimant both made written closing comments and brief oral closing comments.
10. After time for deliberation, I gave the parties my decision on the third day. I gave oral summary reasons under rule 60(4A)(b)(i) of the Employment Tribunal Procedure Rules 2024. I explained how I applied the legal principles to the facts to reach my decision in respect of each of the issues for me to decide. The conclusions section of these written full reasons reflects the oral summary reasons I gave.
11. The claimant's complaint of unfair dismissal failed and was dismissed.

Findings of fact

12. There was relatively little dispute between the parties about what happened.
13. The claimant worked as an arborist for the respondent from October 2020 until his dismissal on 23 February 2024.
14. On 22 November 2023 colleagues of the claimant who were being investigated for an unrelated incident raised concerns with the respondent's managers about posts on some WhatsApp groups.
15. The claimant was one of about seven people who were the subject of those concerns. A manager, Simon Johnson, conducted a fact-finding meeting with the claimant on 5 December 2023.
16. Mr Johnson completed his report on 25 January 2024. He recommended that the matter should proceed to a formal disciplinary hearing.
17. The claimant was invited to a disciplinary hearing which took place on 8 February 2024. It was heard by Paul Cowdale, another manager. The claimant was accompanied at the meeting by a trade union representative.
18. Mr Cowdale decided that the claimant should be dismissed with effect from 23 February 2024 for reasons relating to his conduct, specifically his involvement with inappropriate WhatsApp group messages and with a separate incident in which he failed to follow the respondent's safety standards.

19. The claimant appealed against his dismissal. The appeal was heard by Hayley Joynson on 1 May 2024. Ms Joynson wrote to the claimant on 4 June 2024 with the outcome of the appeal. The appeal was unsuccessful and the dismissal was upheld.

The law

20. Section 98 of the Employment Rights Act 1996 says (as far as is relevant here):

“(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—the reason (or, if more than one, the principal reason) for the dismissal, and that it is either a reason falling within subsection (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.

(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 (including the size and administrative resources of the employer’s undertaking) 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.”

21. It is for the employer to show the reason for dismissal. If the employer shows a potentially fair reason for dismissal, a neutral burden then applies when considering the fairness of the dismissal in the circumstances.

22. In a complaint of unfair dismissal where the reason for the dismissal is conduct, the role of the tribunal is not to examine whether the employee is guilty of the misconduct. The employer must show that, at the time of the dismissal, it had a genuine belief that the employee had committed misconduct (*British Home Stores v Burchell* [1980] ICR 303).

23. If the respondent establishes that genuine belief, the tribunal goes on to decide, applying a neutral burden:

23.1. Whether there were reasonable grounds for believing that the employee committed misconduct;

23.2. Whether at the time that the employer formed that belief on those grounds, it had carried out an investigation which was reasonable in the circumstances;

23.3. Whether the procedure adopted by the employer was procedurally fair and within the range of reasonable responses; and

23.4. Whether dismissal was within the range of reasonable responses.

24. The tribunal must not substitute its own view of the appropriate penalty for that of the employer.

Conclusions

25. I now explain the conclusions I reached having applied the legal tests to the facts as I have found them.

26. The legal test is set out in section 98 of the Employment Rights Act 1996. There are broadly two parts to the test.

Reason for dismissal

27. The first part of the test is that the reason for dismissal has to be one of the reasons that is listed in section 98, also known as potentially fair reasons. They are the only reasons for which someone can be fairly dismissed once they have the right not to be unfairly dismissed if they have, like Mr Greenwood, worked for an employer for more than two years.

28. Here the respondent relied on conduct as the reason for dismissal. A reason relating to the conduct of the employee is a potentially fair reason included in the list in section 98(2).

29. I have to decide whether Mr Cowdale, who made the decision to dismiss, and Ms Joynson, who decided the appeal, had a genuine belief that the claimant had committed misconduct.

30. I accept that this first part of the test – the genuine reason for dismissal - is satisfied. There was not really any suggestion otherwise. There was no argument that either of them had a hidden agenda for example.

31. The reason for Mr Cowdale's dismissal of the claimant and Ms Joynson's decision not to uphold the appeal was Mr Greenwood's conduct, specifically the two allegations set out in the disciplinary and dismissal letter. That was a potentially fair reason for dismissal.

Fairness in the circumstances

32. This means that I go on to the second part of the unfair dismissal test. In summary, the second part of the test is that the dismissal must be fair in all the circumstances. That is set out in section 98(4). I have to consider whether the respondent acted reasonably in these circumstances in treating the conduct as a sufficient reason to dismiss. I decide this on a neutral basis, that means that neither party has the burden of proving these points.

33. My role is not to make my own decision about whether Mr Greenwood should have been dismissed. I do not decide whether I would have dismissed the claimant in

these circumstances, or even whether the respondent's decision was the right decision. The rules I am applying accept that there might be more than one reasonable approach in the same situation: the law recognises that different employers might take different approaches in the same circumstances. I have to assess whether this decision was a decision which no reasonable employer would have made.

34. I look at a number of factors when considering fairness. They were summarised in the list of issues. As I have reached the conclusion that the reason for dismissal was the respondent's genuine belief that the claimant had committed misconduct, I decide:

- 34.1. whether there were reasonable grounds for the respondent's belief, at the time it was reached,
- 34.2. whether the belief was based on a reasonable investigation;
- 34.3. whether a fair procedure was adopted overall; and
- 34.4. finally, I ask whether, in the circumstances, dismissal was within the range of reasonable responses. As part of that, I look at whether the respondent applied its policies consistently when dealing with similar misconduct in comparable circumstances. That was an important part of the claim here.

35. I also take into account the points raised by Mr Greenwood about the fairness of the dismissal in his appeal letter and at the hearing.

36. I do appreciate that the dismissal had a huge impact on Mr Greenwood and his family in financial terms, and that he felt he had to commit to a very significant relocation to find work. But just to be clear, that impact is not part of the legal test that I have to apply when considering the fairness of the dismissal.

37. Next, I will explain my conclusions on each of the four points I have just identified and the points raised by Mr Greenwood.

Reasonable grounds for the belief in misconduct

38. On the first point, I look at the two alleged instances of misconduct to see whether there were reasonable grounds for Mr Cowdale and Ms Joynson to believe that Mr Greenwood committed misconduct.

39. The first allegation was about the claimant's involvement with two Whatsapp groups: the 'banter' group and the 'work stuff only' group. Both Mr Cowdale and Ms Joynson carefully reviewed the messages on those groups and considered the wider context. In fact Mr Greenwood did not deny his participation in the group. He did not deny that the material posted was potentially offensive and discriminatory. He also accepted that he had been responsible for setting up the banter group. There were reasonable grounds for both Mr Cowdale and Ms Joynson to believe that Mr Greenwood sent and received inappropriate messages within these two groups.

40. The second allegation was about Mr Greenwood's involvement in an incident in

which he failed to follow the respondent's safety standards. Mr Greenwood accepted that he was involved, that he had videoed the incident and that he had posted it on a Whatsapp group chat. There were reasonable grounds to conclude that there was a failure by Mr Greenwood to follow SSE safety standards.

41. There were therefore reasonable grounds for Mr Cowdale and Ms Joynson to believe that Mr Greenwood was guilty of misconduct in relation to both allegations.

Reasonable investigation

42. Next, I look at whether there was a reasonable investigation by the respondent. In his appeal email, Mr Greenwood said that the investigation was flawed because:

42.1. It was not thorough; and

42.2. Mr Johnson was not impartial, because he had been involved in inappropriate chats himself.

43. Mr Greenwood may no longer be pursuing these points, as he said in evidence that he had no issue with the fact-find part of the process. For completeness though, my conclusion is that neither of these points affected the fairness of the dismissal:

43.1. the fact-find was thorough, all relevant witnesses were spoken to and the relevant documents, in particular the WhatsApp group chats, were reviewed in careful detail; and

43.2. a one-off reference by Mr Johnson to his own experience of WhatsApp groups when he worked in a different organisation did not impact his independence to investigate these incidents.

44. It became clear in the hearing before me that Mr Johnson may have initially recommended that Mr Greenwood be dealt with informally, but later changed this to a recommendation for formal treatment. That change was not something Mr Cowdale was involved in. It was not known to Mr Cowdale at the time of his decision to dismiss. A change of mind by the investigator in relation to their recommendation for next steps did not in itself make the investigation unreasonable or unfair.

The fairness of the procedure overall

45. Next, I decide whether a fair procedure was adopted overall. This includes the whole procedure, in other words the disciplinary and appeal stages, as well as the investigation.

46. The respondent followed the Acas Code of Practice. There was an investigation, a disciplinary hearing and an appeal hearing. There were different managers at each stage. Mr Greenwood was made aware of the allegations against him and he was made aware that dismissal was a possible outcome. He was provided with all the information the respondent had obtained. He was given the opportunity to respond to the allegations. He was told that he could be accompanied at the hearings and he chose to be accompanied at both hearings by a trade union representative. He was informed of the outcome of the hearings in writing.

47. On the question of the fairness of the procedure overall, Mr Greenwood said that two inappropriate Facebook posts made by Mr Cowdale in 2012 impacted on the fairness of the disciplinary process. The posts were made 12 years prior to the disciplinary hearing, on a personal Facebook page. This did not impact Mr Cowdale's independence to decide Mr Greenwood's case or affect the fairness of the procedure.

48. There was a suggestion that Mr Greenwood was not able to read the transcript of the disciplinary hearing but he did not pursue this.

49. I have decided that overall a fair procedure was adopted by the respondent.

The range of reasonable responses

50. That leaves the overarching question of whether dismissal was in the range of reasonable responses. As I have explained, I have to make an assessment of whether dismissing Mr Greenwood was outside the reasonable responses open to a reasonable employer in these circumstances. Mr Greenwood's main challenge was that the decision was too severe. I have to consider whether it was so severe that no reasonable employer would have chosen to dismiss him in these circumstances.

51. I have first looked at whether Mr Greenwood could reasonably have been expected to have understood that the respondent would regard his conduct as misconduct. Mr Greenwood highlighted the lack of training on the relevant policies, in particular on the social media policy. I have decided that, despite not having specific training on the social media policy, Mr Greenwood could have been expected to have understood that his conduct relating to the WhatsApp groups would be regarded as misconduct, for the following reasons:

51.1. His contract said that a failure to comply with employee rules may lead to disciplinary action. It said that the employee rules were available on the intranet or from HR. Those rules gave examples of gross misconduct which included "social media, text or other forms of messaging which constitutes unacceptable behaviour which is personally offensive, socially unacceptable and fails to respect the rights of others";

51.2. His contract also expressly said that he must not engage in or knowingly permit any fellow worker to engage in harassment or discrimination on the grounds of sex, sexual orientation or disability (among other things). This was also explained in the 'Doing the Right Thing' guide. The employee rules gave disregarding the 'Doing the Right Thing' guidelines as another example of gross misconduct;

51.3. Both of the Whatsapp groups included communications about work matters. There was cross over (or blurring) of the groups. The nature and content of the messages under scrutiny in Mr Greenwood's case were such that it would have been obvious to him that they were not appropriate for a work environment.

52. In respect of the second allegation, Mr Greenwood admitted that he had failed to follow the respondent's safety standards. Mr Greenwood's contract expressly said

that ignoring safety rules would amount to personal misconduct. A failure to follow safety rules is a particularly important issue given the nature of the respondent's operations.

53. Mr Cowdale decided that Mr Greenwood's conduct amounted to misconduct. He then went on to consider what sanction would be appropriate. He considered whether another outcome was possible but formed the view that Mr Greenwood's conduct was such that dismissal was the only appropriate response. He felt that Mr Greenwood had not accepted the impact that the messages could have on others. Mr Cowdale concluded that Mr Greenwood had normalized his behaviour, and that he would not change his ways if he was given a lesser sanction. That was a decision which was open to him to reach.
54. Mr Greenwood said there was a lack of consistency and that dismissal was a harsh outcome compared to others involved in the same misconduct. There were about seven employees involved in the investigation. Some were dismissed like Mr Greenwood. The manager of the team resigned. Mr Greenwood relied on the fact that two of the employees were given final written warnings.
55. Mr Cowdale properly considered each employee's case individually and did not adopt a blanket approach. It would not have been fair for him to do that. He has explained the factors that led him to decide that a final written warning was appropriate for two other employees. One of those employees only participated in the group chat to a very limited extent. While the other posted messages and media to a similar or slightly greater extent than the claimant, their case lacked additional features which Mr Greenwood's had. Those features included:
- 55.1. the fact that Mr Greenwood set up the second WhatsApp group (the banter group) when he became aware that material on the first group was being leaked. Mr Cowdale reasonably decided, based on this, that Mr Greenwood must have understood that the posts were inappropriate;
 - 55.2. Mr Greenwood's involvement in the admitted safety breach; and
 - 55.3. Mr Cowdale's view that Mr Greenwood did not fully appreciate the impact of his messages and why they were inappropriate in the context.
56. These additional features of the claimant's case (which were not present in the other employee's case) were reasons why Mr Cowdale decided that dismissal was the appropriate sanction in the claimant's case. That was a decision which was open to him.
57. Mr Cowdale took into account the points Mr Greenwood raised at the disciplinary hearing. These included:
- 57.1. The fact that the team's manager was involved in the group chat. Mr Cowdale decided that the claimant should have known that his conduct was unacceptable, even though it was not challenged by his manager.
 - 57.2. The fact that the concerns came to light because they were raised by two other colleagues who were themselves being investigated for an unrelated incident. Mr Greenwood said that those colleagues tried to hide their own

involvement with the concerns they raised. Mr Cowdale concluded that it made no difference how the conduct had come to light or what those colleagues had done. It was Mr Greenwood's conduct which was the focus in relation to this decision.

58. Those were conclusions which it was open to Mr Cowdale to reach.

59. Given the extent and nature of the messages posted, combined with the admitted breach of safety rules and Mr Greenwood's approach at the disciplinary hearing, Mr Cowdale's decision to dismiss was squarely within the range of reasonable responses here.

60. Mr Cowdale's decision was fully and carefully reviewed by Ms Joynson in light of the appeal points raised by the claimant. She also reached the conclusion that dismissal was appropriate in these circumstances. Again, that conclusion was open to her to reach.

61. I have decided that in these circumstances, dismissal was within the range of reasonable responses. As I have explained, it is not my role to decide whether the respondent made the right decision. I have to consider whether the respondent genuinely believed that there was misconduct, whether it had reasonable grounds for that belief, and whether it investigated and conducted the process fairly. I have decided that it did, and that it reached a decision that was not outside the range of reasonable responses.

62. For those reasons, I have decided that the dismissal was a fair one. The claim of unfair dismissal does not succeed and is dismissed.

**Approved by:
Employment Judge Hawksworth**

Date: 17 August 2026

Sent to the parties on: 18 August 2026

For the Tribunals Office

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