



EMPLOYMENT TRIBUNALS

Claimant: Mr T Duda
Respondent: Stop-Choc Limited
Heard at: Reading **On:** 24-26 June 2026
Before: Employment Judge Anstis
Representation
Claimant: Mr M Wiencek
Respondent: Mr S Keen (counsel)

FULL REASONS

INTRODUCTION AND ADDITIONS

1. An oral judgment (by way of summary reasons) was given at the conclusion of this case. The claimant requested written reasons at the end of the hearing, and written summary reasons were sent to the parties on 31 July 2026.
2. On 13 August 2026 (so within the time allowed for such a request) the claimant requested full written reasons. These are those full reasons.
3. The Employment Tribunals' Rules of Procedure draw a distinction between summary and full reasons. There are important procedural differences between the two, and rule 60(7) provides that:

“full reasons’ are reasons which:

- (a) Identify the issues which the tribunal had determined,*
- (b) State the findings of fact made in relation to those issues,*
- (c) Concisely identify the relevant law, and state how that law has been applied to those findings in order to decide the issues, and*
- (d) Where the judgment contains a financial award, identify by means of a table or otherwise, how the amount to be paid has been calculated.”*

4. By contrast, *“summary reasons’ are reasons which provide a brief explanation of why the tribunal has reached its decision in respect of each issue”.*

5. In the absence of any authority on the point, it seems to me that the distinction in any particular case between summary and full reasons is liable to depend on the nature of the case and the scope of the summary reasons previously produced. In some cases it may be that provision of full reasons requires a complete re-write of the previous summary reasons, starting from a blank sheet of paper. In other cases, the full reasons may simply be the summary reasons with some supplemental material. In my view, this case, which is essentially fact-dependent, does not involve complex or disputed law and where the summary reasons are already quite detailed, is one that falls into that second category. Hence the full reasons are the summary reasons supplemented by this introduction, which includes some additional legal references. From the criteria describing full reasons, it is only "*concisely identifying the relevant law*" which I consider is missing from the summary reasons.
6. As regards the claim of unfair dismissal, the relevant legal provisions are ss98, 112, 118, 122 & 123 of the Employment Rights Act 1996 and ss207 & 207A of the Trade Union and Labour Relations (Consolidation) Act 1992. The reference to Burchell is to British Home Stores Ltd v Burchell [1978] IRLR 379 and the reference to Polkey is to Polkey v A E Dayton Services Ltd [1987] UKHL 8.
7. As regards the claim of race discrimination, the relevant legal provisions are s13 and s136 of the Equality Act 2010, with s136 to be applied as described in Igen v Wong [2005] EWCA Civ 142 and Madarassy v Nomura [2007] EWCA Civ 33.
8. As regards the questions of wrongful dismissal, provision of written particulars and written reasons for dismissal, the relevant law is contained within the summary reasons.
9. What follows are the original written summary reasons.

ORIGINAL SUMMARY REASONS

10. Summary reasons were given orally at the conclusion of the hearing. These written summary reasons are produced at the request of the claimant, with the request being made at the conclusion of the hearing.
11. The claimant was employed by the respondent as a supervisor, responsible for around 20 workers in part of its manufacturing operation.
12. The claimant was a long serving employee, having first been employed on 1 November 2007. The effective date of termination of his employment is in dispute, but would have been some time in November 2025. The respondent's purported reason for dismissal (without notice) is given in a letter of 12 November 2024. Whether the claimant received this letter is in dispute, but I do not understand it to be in dispute that it contains the respondent's purported reason for dismissal, which is:

“The purpose of the disciplinary hearing was to discuss incidents of you being consuming alcohol at work place and also your involvement in inflating working hours by falsifying clocking timings.

Upon further investigation we have corroborating testimony from several of your colleagues and peers regarding the consumption of alcohol as well as further evidence of falsifying timesheet data. Therefore for the reason of gross misconduct we are hereby dismissing you from the employment with effect from date of this letter.”

13. The prompt for this was an email or series of emails received from an anonymous informant. An email dated 24 October 2024 says:

“I am writing to bring to your attention a concerning incident that took place on the 22nd of February 2024 at 17:15pm involving one of our employees, Thomas.

According to the surveillance footage, Thomas was found in an intoxicated state near the lockout machine, being carried from the X-mount mixing room to the car park by two individuals, one of whom was identified as Janus. It was evident that Thomas was unable to walk on his own and had passed out in the mixing room. Additionally, there are more videos and pictures from other employees who were terminated yesterday for the same reason not giving him lift in there car and Thomas wants to pay petrol money by adding extra hours on weekly timesheet instead of cash.

Moreover, it has come to our attention that Thomas drinks alcohol daily, as confirmed by one of his superior already knew. This information is widely known among the workshop employees.”

14. The informant had also provided a video of the claimant, apparently drunk, on his way into work. The respondent’s witnesses accepted that although shown on his way to work the claimant had in fact called in sick on that day, so they accepted that this did not show the claimant as being drunk at work. Indeed, this may be to the claimant’s credit as showing that when he was drunk (or apparently drunk) he did not work.
15. The respondent’s witnesses readily accepted that they had no information other than this anonymous report from which to conclude that “extra hours” were given instead of petrol money. While Mr Wiencek considered this petrol money point to be an integral part of the allegation in relation to the hours, I do not agree that it was. The various letters that follow refer instead to such matters as “*falsifying time keeping records to ensure individuals who report directly to you are paid more than they should be*”, not relying on any particular purpose behind the falsification.

16. This initial anonymous report is best regarded as being the prompt for what followed, not as substantial evidence in its own right.
17. A troubling aspect of this case is that strong suspicions that the claimant may be drinking at work seem to have been prevalent in the respondent's operations without any effective action having been taken about it. Mr Hughes, the Operations Manager with responsibility for manufacturing, had earlier suspected the claimant, apparently on a number of occasions, of drinking at work, but he limited his follow-up of this to asking the claimant's immediate manager to have a word with him. Mr Ahamed said that he had seen the claimant drinking at lunchtime during the working day. While Mr Gridel put forward evidence to the effect that the respondent would have no tolerance of drinking at work, that is not demonstrated by the behaviour of Mr Hughes and Mr Ahamed. It may well be appropriate in such circumstances to take a compassionate approach to matters, but it is not to the respondent's credit that no proper action was taken until prompted by this anonymous informant.
18. On 25 October 2024 the claimant was summoned by Mr Hughes to a meeting to take place in the presence of the claimant's immediate manager. This meeting was described as an investigatory meeting. The claimant says he was given no proper notice of this, but it has not been suggested by Mr Wiencek that the ACAS Code of Practice requires any particular formalities before an investigatory meeting.
19. The respondent recorded that meeting. A transcript was produced, but only for the purposes of this hearing. It shows Mr Hughes getting straight into matters by saying that there were two videos and "*several allegations, many allegations*" about the claimant being drunk at work. The claimant asks who said that, and the anonymous informant is quickly identified as being someone who may have a grudge against the claimant. Mr Hughes says "*there has definitely been occasions where I personally have thought ... Tomasz smells a little bit of alcohol*". There follows passages in which the claimant appears to admit to drinking or being drunk at work, apologises for it, and accepts "*it's not safe*". Perhaps the clearest exchange is the following:
 - "Q. *you know you can't drink alcohol at work, Tomasz*
 - A. *Yeah, I sort of apologise, it's my fault ...*
 - Q. *You know you can't drink at work.*
 - A. *Yes, I know. I apologise about that."*
20. The claimant later sought to resile from these apparent admissions, saying that English is not his first language and that all that he had admitted to was attending work with a hangover.

21. I do not accept that. It is clear that the accusation being put is of drinking or being drunk at work, not having a hangover, and I find on the balance of probabilities that that was how the claimant understood it. He had worked in the business for around 17 years, working in English. He understood the difference between being drunk and having a hangover, and everything he says (including it not being safe) is consistent with the questions being in relation to drinking or being drunk, not having a hangover.
22. Contrary to what would be the expected practice, the claimant was never provided with notes of this meeting – or at least not until these proceedings had been initiated.
23. By this time, Mr Ahamed had checked the respondent's clock card system, Act in Time, and found a number of instances where the claimant had manually changed time entries in respect of the presumed informant, who at that time reported to the claimant. Mr Hughes asks questions about that, including the following:

“Q. I've checked Act In Time with Basheer and we found many occasions where people, this particular individual that you're talking about has left, has clocked out of the building, left the building, on CCTV, left the building at 12 o'clock, the Act In Time says 12 o'clock and then you've changed the acting time to two o'clock, or four o'clock, or six o'clock.

TD: No way.

AH: And the person is alleging that you're doing that because you don't want to pay him petrol money so you're giving him extra hours by doing that. That's what he said.

TD: No way.

AH: Never? You never change it because in Act In Time it's got your name on it.

TD: I change I change but no never like that 10 15 minutes and I change this one. I change Act In Time for the day I change.

AH: Basheer's looked at and there's at least 10 in this year, since February, where it's been more than an hour, two hours sometimes, four hours one day.

TD: No way.”

24. It is not in dispute that the claimant's position as supervisor brought with it the authority to manually change time entries on the clock card system, nor is it in dispute that the claimant made the changes identified by the respondent and of which Mr Hughes speaks in the meeting. Mr Wiencek questioned some of the

respondent's witnesses apparently on the basis that the claimant was authorised to make the alleged changes. If that is meant in the sense that he was able to make the changes, I accept that. But that does not give the claimant free rein to make changes without being answerable for them. I also do not accept (to the extent that it may be alleged by the claimant) that failure to pick up on these earlier through any oversight or supervisory procedures is to be taken as somehow endorsing the changes. I accept that changes of this nature would not stand out as odd or be particularly noticeable by those higher up the management chain. With the ability to make these changes came the responsibility to do so only for proper reasons.

25. It is also clear from this exchange that from the start the respondent's concern was not with minor changes the claimant seemed to attempt to justify, but with a number of more substantial changes, adding on two or four hours at a time.
26. While there are aspects of the respondent's process that can, and will be, criticised in this decision, a fundamental problem for the claimant has been his complete failure to account for or even acknowledge these more substantial changes. He was shown the original timesheets and the changes in the appeal hearing, if not earlier, and of course he had them in preparation for the hearing. This led to a somewhat difficult period for Mr Wiencek where overnight during the hearing he was asked to look in the claimant's witness statement or elsewhere for any explanation of these more substantial changes. None could be found. This culminated in a question from Mr Wiencek to the claimant's brother (who was a witness in the case) about why the changes have been made. Unsurprisingly the claimant's brother had no explanation and this served only to emphasise that the claimant has never given an explanation of these substantial changes. Whatever the claimant's reservations about the respondent's conduct of the disciplinary and appeal processes, he had every opportunity to provide this explanation to the tribunal where it was bound to be relevant to consideration of wrongful dismissal, Polkey and contributory fault. He has not provided any explanation.
27. On this point, I will address the race discrimination claim. The claimant says that he is Polish and that British nationals also made manual changes to the clock card system but were not disciplined for it. In principle I understand the respondent to accept this. Examples were given, undisputed by the respondent, of hours being carried over from one month to another on reaching a cap, or of Sunday work being recorded on other days – but these are not appropriate comparators for the claimant. The point the claimant misses in making this comparison is that the allegation against him is of *"inflating working hours by falsifying clocking timings"*. No example given by the claimant of British managers manually changing hours involves *"inflating working hours"* or payment being made for hours not worked. There may be many proper reasons for manually changing the hours, but the point taken against the claimant was that his adjustments were improper – they meant that the informant was being paid for hours he had never worked, not hours worked at one time but recorded

at another. As noted above, the claimant has never had any answer to that. The comparators were not properly comparable to him, and his race discrimination claim is dismissed.

28. I will also deal with the wrongful dismissal question – whether, on the balance of probabilities, the claimant had acted in repudiatory breach of his contract.
29. It has never been the claimant's case that drinking at work and inflating hours would not amount to a repudiatory breach of contract. His response has been (at least by the time of the disciplinary hearing) that he did not drink at work, and he had no response to the question of inflating hours other than that occasionally he would add on ten or fifteen minutes on a friendly basis.
30. So did the claimant drink at work and did he inflate working hours?
31. I consider the evidence to be overwhelmingly that he did. The respondent's collection of evidence of drinking and its production of that evidence to the claimant can be criticised, but nevertheless there was evidence. The appeal officer describes the evidence as "anecdotal", but anecdotal in this situation seems to mean people thinking that the claimant had been drinking, which is not insignificant. As described above, the claimant admitted to drinking at work, and there were a number of people who confirmed this.
32. On the second point – inflating working hours – it is well established that the claimant on multiple occasions added two or four hours manually to the informant's timesheet, and he has consistently failed to account for that. In those circumstances I find that he did inflate the hours, and it does not matter whether this was for petrol money or not.
33. Accordingly the claimant committed gross misconduct and his wrongful dismissal claim is dismissed.
34. On 30 October 2024 Mr Hughes wrote to the claimant to say:

"On Friday 25th October you were suspended from work with immediate effect due to consuming alcohol at the workplace which you admitted to. You were advised that further investigations into this behaviour were ongoing. Health and Safety at work is an important consideration and not only do we have a duty of care to yourself but to all employees of the company.

You were also advised that allegations had been made that you had falsified time sheet data for certain subordinate individuals inflating their earnings, and that these allegations were being investigated. You admitted to making small adjustments between twenty minutes and half an hour for some employees but could not remember adjusting any for an hour or longer.

You are invited to attend a disciplinary meeting regarding the above with myself and Jerome Gridel on Monday 4th November at 3pm. The meeting will be held at Unit 21, Suttons Business Park, Reading RG6 1AZ. You have the right to attend with a representative such as a colleague, trade union representative or official employed by a trade union."

35. The claimant attended the meeting with Mr Hughes and the managing director of the business, Mr Gridel. The respondent kept only very brief notes of the meeting, but the claimant took his own covert recording. In the hearing the claimant presented a statement. As regards the question of drinking, he said that he may have smelt of alcohol once on the Monday after a weekend of drinking. This is close to but not quite the "hangover" explanation he later gave. As for the hours, he said he had paid the informant separately for petrol, had sometimes changed his hours by 10-15 minutes and that other managers changed hours too.
36. At this hearing no-one, not even Mr Gridel, had a transcript of the investigation meeting. The claimant denies drinking at work, and either Mr Gridel or Mr Hughes suggest to the claimant that he has sometimes been so drunk that he needed to be carried out of work. The impression from the notes is that Mr Gridel and Mr Hughes are concerned about the claimant's welfare and want him to leave in return for some sort of "bonus" payment, possibly a month's wages. This was at least partially followed up, but came to nothing, and on 12 November 2024 the respondent wrote to the claimant setting out his dismissal in terms I have previously cited.
37. Despite this letter not informing him of a right of appeal, the claimant consulted lawyers who wrote what seems to be a combination of a letter before action and an appeal. It is the claimant's case that this amounted, amongst other things, to a request for reasons for dismissal under section 92 of the Employment Rights Act 1996. I agree with Mr Wiencek that there is no specific form of words required to meet that requirement. What is required is something that can be read as a request for reasons for dismissal, but I do not see anything of that nature in the letter. There is an accusation that reasons have not been provided, and a "*request for resolution*" setting out a number of matters, none of which is a request for reasons. This is not a request for reasons, and the fact that it already alleges a breach of s92 suggests that the claimant's representative was under the impression that such a request had already been made, not that the letter itself was a request. The claim of a failure to provide written reasons for dismissal is dismissed.
38. The respondent drew in a HR consultant to hear the appeal, but the claimant was still not provided with any written evidence in advance of the hearing. At the appeal hearing amongst other things the claimant suggested that his appearance of being drunk may be something to do with his diabetes. The appeal officer conducted some further enquiries with witnesses after the

hearing. The appeal was dismissed. The respondent took notes but as with the disciplinary hearing these are very brief.

39. I have already mentioned some procedural failings by the respondent. There was considerable doubt during the hearing as to whether they were actually following any procedure at all, none having been produced in the tribunal bundle – an omission which led Mr Keen to think at one point that there simply was no disciplinary procedure in place at the time. Certainly that was for a while my impression given that matters seemed to proceed without reference to any particular procedure at all. On my prompting by the end of the hearing a disciplinary procedure dating from 2004 had been produced, although it seemed this was not the one referred to in the latest version of the claimant's terms and conditions of employment. That version was produced only shortly before I delivered my decision.
40. This question as to whether there was a disciplinary procedure at all seems illustrative to me of the procedural problems in this case. By the time of the invitation to the disciplinary hearing there are a number of deviations from best practice that will be apparent to anyone with experience of modern HR practice, and I can say that by reference simply to the respondent's version of events, without delving into disputed matters.
41. In particular, no minutes had been produced of the investigation meeting, the disciplinary invitation letter did not contain any written evidence relied upon by the respondent, which must at least include the timesheets and ought also to have included witness statements concerning the drinking. While the reluctance of the claimant's peers and subordinates to commit to witness statements is understandable, the same obstacle did not apply to Mr Hughes, the claimant's immediate manager and Mr Ahamed, each of whom had reason to think the claimant had been drinking at work. The disciplinary invitation letter did not warn of possible dismissal. The decision letter made no mention of a right of appeal.
42. Arguably some of those deficiencies were made up elsewhere – for instance, by warning of possible dismissal having been given verbally – and some may have been put right by the appeal hearing, when the timesheets were made available, but I must take into account the ACAS Code of Practice in considering matters of fairness, and note para 9 of that:

“If it is decided that there is a disciplinary case to answer, the employee should be notified of this in writing. This notification should contain sufficient information about the alleged misconduct or poor performance and its possible consequences to enable the employee to prepare to answer the case at a disciplinary meeting. It would normally be appropriate to provide copies of any written evidence, which may include any witness statements, with the notification.”

43. Whatever view is taken of matters, the written notification did not contain information about possibly consequences and nor did it contain written evidence – at a minimum the timesheets.
44. In closing submissions Mr Keen suggested that the respondent was a small employer. They did not complete the number of employees in the ET3 so I cannot verify this, but I note that the claimant had at least three managers above him and was himself responsible for twenty or more workers. I also note this is part of a much wider and more substantial group. It also had access to a HR consultant. So this is not a micro-employer where procedural points could be overlooked as too onerous. The respondent should have done much better on its procedure. It is fair to say that the appeal process was an improvement on the disciplinary hearing, but I cannot overlook the earlier failings. The claimant's dismissal was unfair on account of these procedural failings.
45. For the avoidance of doubt, I accept that the respondent had a genuine belief in the claimant having carried out the misconduct, and that the other elements of the Burchell test were satisfied. The dismissal was unfair because of a failure to comply with the ACAS Code of Practice.
46. I also do not find that any failings were in any way malicious or deliberately designed to disadvantage the claimant. They seem to have stemmed from a combination of inexperience in handling disciplinary matters and a desire to bring matters to an end with as much mutual dignity as possible in the case of a long-standing and otherwise respected employee who either admitted or did not dispute serious allegations against him.
47. There remains the question of remedy for unfair dismissal, which has a number of aspects.
48. First is consideration of Polkey and contributory fault.
49. As is evident from my findings on wrongful dismissal, I consider that the claimant has committed gross misconduct. Those involve both personal honesty and matters of health and safety, which any employer would rightly regard as being very serious. In those circumstances it seems to me that the claimant's basic and compensatory award should be reduced to zero. This can either be via Polkey or contributory fault, but I prefer to view it as a reflection of what I consider to be 100% contribution to his dismissal (or conduct before the dismissal), and therefore a 100% deduction from the basic and compensatory awards.
50. Finally there is s38 of the Employment Act 2002, which applies even if I make no award (s38(2)). While this has always been in issue it was only in closing submissions that the particular deficiency alleged by the claimant was identified. The allegation was that the respondent was in breach of section 4(1) of the Employment Rights Act 1996 by not having provided a statement of changes in respect of the claimant's job title and latest pay awards. Given the

late identification of this, I permitted the respondent some time to investigate the matter, and they produced some further documents that the parties made submissions on. This included a “salary review” note from June 2021 recording the claimant’s salary increase and noting his position as being “*assembly supervisor*”. That certainly suffices as notice of change of salary in 2021, but there is nothing of that nature after that, when there have been a number of salary increases. It identifies the claimant’s current role, and speaks of “additional responsibilities” but does not in any way purport to be notification of a change in his job title. In any event the best evidence I have about when the claimant became a supervisor is his evidence that this occurred in 2020, in which case notification in June 2021 would be too late to satisfy the requirements of s4(1).

51. Mr Keen was left to say that the claimant had payslips which informed him of his current salary rate. No doubt that is true but it seems to me that a payslip does not amount to a “*written statement containing particulars of the [salary] change*” so as to satisfy s4(1), nor that a general reference to pay being changeable satisfies s4(1). The respondent has failed to meet s4(1) by failing properly to notify the claimant of a change in his job title and in the “*scale or rate of remuneration or the method of calculating remuneration*”.
52. Subject to “exceptional circumstances” which I do not consider arise in this case, I must then make an award of the minimum amount of two weeks’ pay. I may, if I consider it just and equitable to do so, award the higher amount. It does not seem to me to be just and equitable to award the higher amount in these circumstances where the failure is quite limited, so I award the minimum amount, which is two weeks wages at the statutory cap of £700, so £1,400.
53. There remains a claim apparently for one week’s SSP, as to which nothing much was heard during the hearing. A claim in relation to entitlement to SSP is not within the jurisdiction of the tribunal, and must be dismissed. Similarly there seemed to be a residual claim in relation to holiday pay, but I heard no evidence from the claimant as to any holiday pay that may be due and that claim is dismissed as well.

Approved by Employment Judge Anstis:
17 August 2026

REASONS SENT TO THE PARTIES ON

18 August 2026

FOR THE TRIBUNAL OFFICE