EMPLOYMENT TRIBUNALS

Claimant ***Respondent***
Ms A Matuzewicz 2 Sisters Food Group Ltd

REASONS OF THE EMPLOYMENT TRIBUNAL

HELD AT NORTH SHIELDS ON 2nd- 3rd August 2017

EMPLOYMENT JUDGE GARNON
MEMBERS : Ms B G Kirby and Mr S J Lie
Appearances
For Claimant : Mr R Owen
For Respondent : Mr S O'Brien of Counsel
Interpreter Mr Robert Zaborniak

REASONS (bold print is our emphasis)

1 Introduction and Issues

1.1. The claimant was born 14th February 1953. She worked for the respondent from 10th October 2009 as an agency worker and from 31st October 2012 as a directly employed "core" production line worker. She complains of treatment by work colleagues especially Mr William Galey her team leader over a period from 2014. She relies on race as the relevant protected characteristic . She is Polish.

1.2. Rule 2 of the Employment Tribunal Rules of Procedure 2013 contains the overriding objective to deal with cases fairly and justly which includes, in so far as practicable dealing with it in ways which are in proportionate to the complexity or importance of the issues; avoiding unnecessary formality and seeking flexibility in the proceedings . Parties and their representatives must assist by co-operating generally with each other and with the Tribunal.

1.3. In Price v Surrey County Council Carnwath LJ, observed
"*even where lists of issues have been agreed between the parties, they should not be accepted uncritically by employment judges at the case management stage. They have their own duty to ensure the case is clearly and efficiently presented. Equally the tribunal which hears the case is not required slavishly to follow the list presented*"

1.4. Having set out the alleged facts, the original particulars of claim concluded " *I also make a whistleblowing claim as I made protected disclosures in my formal grievance*" Employment Judge Hunter on 17th March 2017 ordered further particulars including, in respect of that complaint, that the claimant:
(a) Identifies the protected disclosure or disclosures relied upon;

(b) Identifies the legal basis of why the claimant believes the disclosure identified in 3. (a) qualifies for protection by reference to ss. 43B-43H of the Employment Rights Act 1996 (as applicable);
(c) Identify the detriment or detriments it is alleged the claimant was subjected to on the ground that she made a protected disclosure(s) giving the date on which the alleged incident(s) took place, brief details of what happened, identifying the person or persons involved and their position and whether there were any witnesses.

1.5. The reply was:
The Claimant made ***protected disclosures of race discrimination*** *in her grievance letter dated 12 September 2016*
The disclosures were qualifying disclosures under s43B(1) ((b) and (1) (d)
The detriment suffered was that the Claimant's grievances were not taken seriously and were not upheld *which caused her additional stress*

1.6. Regional Employment Judge Reed recorded in a telephone hearing on 24th April 2017 the claimant was making a direct race discrimination and harassment claim and claiming detriment on the ground she had made protected disclosures The response raised the issue of whether the disclosures were in the public interest and, as for remedy, whether they were made in good faith.

1.7. Mystifyingly she did not claim under section 27 of the Equality Act 2010 (EqA) which includes
(1) A person (A) victimises another person (B) if A subjects B to a detriment because—

(a) B does a protected act, or

(b) A believes that B has done, or may do, a protected act.

(2) Each of the following is a protected act—

(d) making an allegation (whether or not express) that A or another person has contravened this Act.

(3) Giving false evidence or information, or making a false allegation, is not a protected act if the evidence or information is given, or the allegation is made, in bad faith.

1.8. We agreed at the start of the hearing neither party would be prejudiced if the claim was amended to substitute a claim of victimisation contrary to s 27 ,based on the same pleaded facts , for the claim under 47B of the Employment Rights Act 1996. By doing so , legal argument on "public interest " as explained in Chesterton Global-v-Nurmohamed is avoided . The issue of good or bad faith remains arguable.

1.9. The case of Chapman v Simon says we must decide only the case advanced by the claimant in her claim form as amended . There was some dispute about what would fall in this category as will be seen when we set out the facts .

1.10. The agreed list of issues contained points about time limits. Section 123 says proceedings may not be brought after the end of the period of 3 months starting with the date of the act to which the complaint relates, or such other period as the employment tribunal thinks just and equitable. For these purposes conduct

extending over a period is to be treated as done at the end of the period.The question of acts " extending over a period" has been considered in a number of cases eg Hendricks-v-Commissioner of Police for the Metropolis.2003 IRLR 96, Connected acts happening from time to time which have the effect of creating a harassing environment may well be an act extending over a period . The claimant contacted ACAS to commence early conciliation on 21st November 2016 . They issued a certificate on 20th December 2016. She presented her claim on 13th Janaury 2017 . All connected acts ending after 21st August are in time . We may still consider evidence of earlier acts in so far as it points to racial grounds being, or not being , the cause of acts of which complaint is validly made, as established in Chattopadhay-v-Holloway School, Din-v-Carrington Viyella, Anya-v-University of Oxford quoting with approval Mummery J in Qureshi v Victoria University of Manchester (EAT 21.6.96): However, if we find none of the pleaded acts , even cumulatively, contravene the EqA , time limit points are otiose.

1.11. Section 109 includes
(1) Anything done by a person (A) in the course of A's employment must be treated as also done by the employer.

(3) It does not matter whether that thing is done with the employer's or principal's knowledge or approval.

(4) In proceedings against A's employer (B) in respect of anything alleged to have been done by A in the course of A's employment it is a defence for B to show that B took all reasonable steps to prevent A—

(a) from doing that thing, or

(b) from doing anything of that description.

The respondent pleads ss (4) , but if we find none of the pleaded acts , whoever did them , contravene the EqA , this point is also otiose.

1.12. The issues which remain are

Direct race discrimination
1.12.1. Has the respondent subjected the claimant to detriment within section 39 EqA , which does not constitute harassment ?

1.12.2. Has the claimant proved primary facts from which the Tribunal could properly and fairly conclude the respondent treated the claimant less favourably than it treated or would have treated persons of a different race ?

1.12.3. If so, what is the respondent's explanation? Does it prove a non-discriminatory reason for any proven treatment?

Harassment
1.12.4. Did the respondent engage in unwanted conduct related to race/nationality ?

1.12.5. If so, did it have the purpose of creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant?

1.12.6. If not , did the conduct have that effect? In considering whether it did, the Tribunal will take into account the claimant's perception, the other circumstances of the case and whether it is reasonable for the conduct to have that effect.

Victimisation
Given the claimant's grievance in September 2016 was on its face a protected act were the allegations in it made in bad faith and, if not, was she subjected detriment because of it ?

1.13. The claimant resigned on 12th June 2017 . No application to amend the claim to include constructive dismissal has been made. On the victimisation claim , Mr O'Brien argues the only act complained of in the claim form is the conduct of a Ms Lafferty at a grievance meeting in challenging the claimant as to whether she had resigned . We will, however, consider the broader point emboldened second in paragraph 1.5. above about the handling of the grievance generally.

2 The Relevant Law

2.1. Section 26 of the EqA includes

(1) A person (A) harasses another (B) if—

(a) A engages in unwanted **conduct related to a relevant protected characteristic**, and

(b) the conduct has the purpose or effect of—

(i) violating B's dignity, or

(ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

(4) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account—

(a) the perception of B;

(b) the other circumstances of the case;

(c) whether it is reasonable for the conduct to have that effect.

The relevant protected characteristics include race .

2.2. Section 40 says

(1) An employer (A) must not, in relation to employment by A, harass a person (B)—

(a) who is an employee of A's;

2.3 . Section 13 says
(1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.

2.4. We set out section 27 in paragraph 1.7. Section 39 contains

(2) An employer (A) must not discriminate against an employee of A's (B)—

(d) by subjecting B to any other detriment.

(4) An employer (A) must not victimise an employee of A's (B)—

(d) by subjecting B to any other detriment.

2.5. Harassment and " detriment " under s 39 are mutually exclusive, see s 212(1) . Before harassment became a separate statutory tort, it could be a form of direct discrimination. Porcelli-v-Glasgow City Council was a case where the conduct complained of related to sex , but the reason for doing it did not . The new tort dealt with this anomaly. Now non purposive harassment does not require proof of why the respondent acted as it did to establish liability, provided the unwanted conduct relates to race and it reasonably has the proscribed effect .

2.6 Section 136 includes
(2) If there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred.

(3) But subsection (2) does not apply if A shows that A did not contravene the provision.

2.7. Reversal of the burden of proof is explained in Igen-v- Wong (as elaborated upon in Madarassy –v- Nomura International) and London Borough of Islington-v-Ladele 2009 IRLR 157 .It is for the claimant who complains of discrimination to prove on the balance of probabilities facts from which the tribunal **could** conclude, in the absence of an adequate explanation, the respondent has committed an unlawful act under the EqA . If the claimant does not prove such facts he or she will fail.In many cases, the facts alleged are so stark that , **if all or indeed most are proved,** an inference that they constitute one or other of the statutory torts set out above is easy to draw. In contrast, if the facts alleged amount to , as here, a sustained campaign of detrimental treatment , and only a few of the allegations are proved , for which a non discriminatory explanation is apparent , no such inference is sustainable. Some facts alleged by the claimant are about being treated poorly but the link to race discrimination, harassment or victimisation is tenuous. Unreasonableness of treatment does not show the reason why something was decided upon neither does incompetence.(see Glasgow City Council –v- Zafar and Quereshi-v- London Borough of Newham). Such treatment does not become discriminatory merely because the person affected is of a certain race , see Law Society-v-Bahl

2.8. A case about protected disclosures Street –v-Derbyshire Unemployed Workers Centre gives the best interpretation of " in good faith" per Wall L.J. . If this case turned on "good or bad faith" we would set it out verbatim , but as it does not , it suffices to say good faith is a question of motivation not to be equated with honest belief in the truth of the allegation. The primary purpose of the employee must be to bring the information to the attention of her employer in an attempt to ensure steps are taken to remedy the wrong. Tribunals may when examining motivation, conclude on the facts the claimant was not acting in good faith because her predominant motivation was not directed to remedying the wrong, but was an ulterior motive such as to divert attention from an allegation of misconduct she was herself facing .

2.9. 'Detriment' means anything which the individual concerned might reasonably consider changes their position for the worse or puts them at a disadvantage. In De Souza v Automobile Association 1986 ICR 514, CA, Lord Justice May said the question is to be considered '*from the point of view of the victim. If her opinion that*

the treatment was to her detriment is a reasonable one to hold, that ought to suffice". This was approved in Shamoon-v-Royal Ulster Constabulary ,

2.10. Poor handling of grievances or complaints and failure to take disciplinary action against an employee accused of some form of harassment may well be a detriment to the victim . If an employer makes an objective assessment of where fault lies, even if we disagree with the conclusion, it will reduce the possibility of discrimination being found to influence the process. Assuming where fault lies, without investigation, has the opposite effect. The respondent's case is neither the claimant's race nor her protected act had any influence at all on their decisions. If we accept that , it is a good defence and the bad faith issue becomes otiose.

2.11. As explained in Ladele-v-London Borough of Islington in direct discrimination and vctimisation we must determine the reason why the claimant was treated as she was. Race, or the protected act need not be the only or even the main reason. It is sufficient it is a significant in the sense of being a more than trivial factor. Direct evidence of discrimination or victimisation is rare and tribunals frequently have to infer it from all the material facts. If the claimant proves such facts then the burden shifts to the employer who can only discharge the burden by proving on the balance of probabilities the treatment was not on the prohibited ground. If it fails to establish that, the Tribunal must find there is discrimination. Elias LJ said

(5) It is not necessary in every case for a tribunal to go through the two-stage procedure. In some cases it may be appropriate for the Tribunal simply to focus on the reason given by the employer and if it is satisfied that this discloses no discrimination, then it need not go through the exercise of considering whether the other evidence, absent the explanation, would have been capable of amounting to a prima facie case under stage one of the Igen test: see the decision of the Court of Appeal in Brown v Croydon LBC [2007] ICR 897 paras.28-39. The employee is not prejudiced by that approach because in effect the tribunal is acting on the assumption that even if the first hurdle has been crossed by the employee, the case fails because the employer has provided a convincing non-discriminatory explanation for the less favourable treatment.

(6) It is incumbent on a tribunal which seeks to infer (or indeed to decline to infer) discrimination from the surrounding facts to set out in some detail what these relevant factors are: see the observations of Sedley LJ in Anya v University of Oxford [2001] IRLR 377 esp.para.10.

3 Findings of Fact

3.1. We heard the evidence of the claimant who called no witnesses. For the respondent we heard Mr William Galey (known as Billy), a Team Leader, Ms Valerie Weir, Manager of the 'Low Risk' Area, Ms Kathryn Lafferty, Head of HR and Mr Richard Gill, the Senior Manager who dealt with the claimant's grievance.

3.2. The respondent is a food production factory dealing with processing chicken which is delivered raw either chilled or sometimes frozen. It must then be defrosted. The processing areas are divided into low risk and high risk. the risk in question being of food contamination. The claimant used to work in the high risk area. For

health reasons, she transferred to the low risk area in 2014. She has restrictions on her ability to lift. The first process on the production line in the low risk area is called *"bone checking"*. This involves checking large quantities of chicken to ensure small pieces of bone have not been left in the meat. The process is done manually by workers wearing thin plastic gloves. As the chicken is very cold, this is not pleasant work. It is the *"lightest"* duty which is why the claimant was routinely placed on it.

3.3. As with all food production facilities, standards of safety and hygiene are extremely strict. Staff arrive for their shift, which in the claimant's case was 6.00am-2.00pm, and go to a changing area where they remove their outdoor shoes. They wash and sanitise their hands and put on overalls and boots provided before they go into the production area. There they also put on an apron.

3.4 There are two types of staff: employees like the claimant, known as core staff and agency workers. When core staff go for a break, they must clock out and after the break is finished clock back in again. Agency workers do not clock in and out. When leaving the production floor the process of dressing for work is reversed. They take off the apron and hang it in a particular place. The whole idea is that contamination from outside should enter the production area. There are also strict rules against bringing any articles into the production area.

3.5. We are convinced bad language is commonly used in the production area by everybody. Ms Weir takes a strong line about swearing and if she hears it would confront and correct the member of staff concerned. But even she has boundary lines between what constitutes swearing and what does not. If she heard " It's bloody cold today!" she would do nothing.

3.6. This is a very important aspect of the case. The claimant speaks virtually no English and cannot read English. On a shift there would be about 100 staff, approximately 60 in the high risk area and 40 in the low risk area. Although people from the two areas may mix on breaks, they would not on the production floor because of the hygiene requirements differ from one area to another. Of the 40 in low risk about 5 are Polish. There are other non-British workers, some from other Eastern European countries, such as Lithuania and others from outside Europe. However, with the exception of the claimant and one member of Lithuanian staff, all the non-British workers speak some English with varying degrees of fluency.

3.7. Swearing in the English language, in particular the phrase *"Fuck off"* presents problems in translation. The best way of explaining is by an example we invented and used during the course of the hearing. A team leader may say to a worker *"I'm telling you to put those scraps in the bin outside"* and the worker may reply *"Fuck off".* That reply would be a rude way of refusing to do as the worker was instructed. On another occasion, the supervisor may say to the worker *"I'm telling you Sunderland are going to be promoted to the Premier League next season and win it the season after."* If the worker replies *"Fuck off!",* it would be expression of incredulity and scepticism– or to use an English idiom *"pigs might fly".*

3.8. The Polish for *"Fuck off"* is *"Spierdalaj".* It may also be translated as *"Fuck you".* As described by the claimant, it is a rude insult directed at somebody. The use of phrases like this, even to people for whom English is their first language may differ

in interpretation from region to region of the UK. To a person from Poland, who speaks no English, does not understand the context in which the words are spoken, *"Fuck off"* or *"Fuck you"*, if she thinks it is directed at her, will always be an insult.

3.9. In 2014, Mr Galey was working originally on the production line and had been for about a year or two. He was there when the claimant transferred into the low risk area. Shortly afterwards, he was promoted to Team Leader. There are several Team Leaders on the shift, placed at various points on the production area floor. Ms Weir, although she claims to be familiar with the production floor, came across to us as spending most of her time in the office where, doubtless, she has a considerable amount of work to do. We drew this conclusion from her inability to tell us, as Mr Galey could, the division of racial origins of the workers on a shift.

3.10. Shortly after Mr Galey was promoted, the claimant noticed a group of female agency workers taking what she considered to be extended breaks. She observed Mr Galey being quite familiar with one of them whom he embraced and touched on the buttocks without that person objecting at all. . The rule for core workers is very strict. For every minute they are late back from a break they are, according to the claimant, told they will be docked 15 minutes pay. The claimant, in her later grievance letter, which she had translated into English by a friend, refers to the relationship between Mr Galey and the agency workers as*"…not ethical and the situation with our breaks was just unfair."* The claimant assumed Mr Galey sanctioned these agency workers longer breaks. He denies he even knows they were doing so , and we accept that.

3.11. The claimant decided to inform her manager, a Polish woman called Jagoda Blewaska, who immediately took action to make the agency workers' break times be recorded on a list. She investigated the situation and found no evidence the agency workers had been taking longer breaks and absolutely no evidence Mr Galey was complicit in them doing so. We accept Mr Galey's evidence he did not know that this complaint by the claimant involved him at all. He said Ms Blewaska would not be so unprofessional as to tell him which of the staff had made the complaint if it was about him. The claimant could offer no motive when we asked her why Ms Blewaska, who was senior to Mr Galey, would not take action against him if she had thought he did sanction longer breaks for agency workers who were then being paid for doing no work. Ms Blewaska had no motive to cover up any wrongdoing or treat a Polish worker's complaint less seriously than a complaint from a British worker.

3.12. So now we have a situation where the agency workers were having to sign in and out at breaks and their break times were monitored. Although Ms Blewaska would not have told the agency workers the source of the information which had caused them to be restricted in this way, in our judgment, the claimant may well have told others she had raised the matter. Those others would be Polish because she only spoke to Polish people not being able to communicate with British people. Information does leak in all work places and, even where it is not reliable, people have their suspicions. A main aspect of the claimant's case is that from this time **Mr Galey and his friends** harassed her. We do not find this to be so, but, even if it were, the motivation for the harassment would not be the claimant's race but the fact she had made the complaint which, in itself, was not about race but pure favoritism .

3.13. Although the claimant was uncertain in cross examination about the timing, we find a few days later the claimant went to collect her shoes at the end of the day and found they were missing. In her grievance letter and her pleaded case, she says she then had to *"walk home barefoot".* She was insistent when being cross-examined by Mr O'Brien she had walked home but Mr O'Brien's instructions were the claimant did not walk to and from work but got a lift. Our Employment Judge is familiar with the geography of this area and knew it was about 4 miles from the factory to where the claimant lived in Sunderland. When he asked her if she walked about 4 miles, she changed her position and said she did get a lift but had to be barefoot from the factory to the car and from the car to her house. Mr O'Brien submits this shows the claimant is prone to exaggeration and, indeed, he put to her she had deliberately used the word *"walk"* home in order to gain the sympathy of the Tribunal. That is possible but it is also possible her intended meaning was literally "lost in the translation". There is no such rational explanation for what follows.

3.14. The claimant asserted whoever stole the shoes would have been seen on the CCTV in the changing room. CCTV coverage is not comprehensive and sometimes does not work consistently. The claimant asked Ms Blewaska to look at the CCTV and she reported back to the claimant it did **not show** who had taken her shoes. The claimant says in her grievance letter and her pleaded case this shows the respondent is **lying** because the CCTV must show who took them. When we asked her what possible motive Ms Blewaska would have for lying to her to conceal the identity of the thief, she was completely unable to answer. She had no problems with Ms Blewaska who had no motive to cover up for anybody. The likely culprit would be one of the agency workers who resented having her breaks monitored , but there is no evidence at all that Mr Galey did, or would, encourage such a person.

3.15. We have covered the 2014 incident in some depth partly because the claimant and the other witnesses did but, more importantly, because from then, although the claimant says there was a sustained campaign, over a period of nearly 2 years, to harass her, she in fact gives no dates of any events between then and summer 2016. Of course, we would not expect precise dates from any witness, but a month, even a season, would be better than nothing . When the claimant was ordered to give such particulars as can be seen from pages 32-34, all we get is phrases like *"on many occasions during this period".* The other problem, which emerged in cross-examination, was that when the claimant was challenged to say on how many occasions something happened, many things which she had said had happened "*on many occasions*", she admitted had happened once or as few as two or three times. So, even on her own evidence, the relentless campaign upon which her claim relies simply was not sustained.

3.16. Throughout this hearing, every word of English had to be instantaneously translated to the claimant by Mr Zaborniak, a task he accomplished with great skill, and tirelessly. Particularly in answering questions during cross-examination, and from us, we make allowance for the fact the claimant may not have expressed herself with complete clarity. We take the individual points she makes briefly

3.17. She says **whenever** she asked for leave, she was made to write out the request up to ten times because Mr Galey claimed to have mislaid her form. We do not accept this. Mr Galey accepts on occasions when her leave request did come to

him, and it did not always, there were times he could not read what she had put on the form and he did ask her to write it out again. She would get one of the other Team Leaders, a Polish woman, to help her. He does not deny he may occasionally have mislaid her form . We do not accept that on any occasion when she asked for leave, Mr Galey told her to *"Fuck off".*

3.18. She also says Mr Galey **frequently** said to her *"Spierdalaj",* Polish for *"Fuck off"* or *"Fuck you*". Again, we do not accept this and it is particularly important because under the harassment claim this is the only conduct she pleads that , in itself , can be said to be *"related to race".* We do accept, as does Mr Galey and some of the witnesses interviewed during the grievance investigation, he did, on at least one occasion, shout word but not at the claimant. On the shop floor, the word is used by Polish workers and, as Mr Galey explained, English workers have picked it up out of curiosity and sometimes use it

3.19. The claimant alleges Mr Galey called her both a *"bitch"* and a *"**son** of a bitch".* We accept Mr Galey's evidence he would never have used the latter phrase to any woman. He also denies calling her a bitch. During the one or two heated exchanges he had with the claimant, he may have used that word, but would have used it to a woman of any race in the course of such a heated exchange.

3.20. The claimant alleges Mr Galey used to sing songs which mocked her. As Mr O'Brien pointed out, she could not understand what he was singing in English, and she agreed . Mr Galey admits he does sing in the workplace. Then, in passing, Mr Zaborniak interpreted an answer the claimant gave, indicating that on one occasion Mr Galey sang to her *"down on one knee"* indicating a "serenade" . Nothing like that was visible in the pleadings, the claimant's statement or her grievance letter. It was not put to Mr Galey. However, if it happened, there is no reason to think it was connected to her race. We believe a fair amount of what Mr Gill called in his grievance result letter, "humorous interaction" often takes place between workers and this would have fallen into that category. Also, as will be seen when we deal with the grievance interviews , there is evidence the claimant did not like Mr Galey , and he may, on an occasion he does not recall, have been "teasing" her .

3.21. A most important allegation, is that Mr Galey left *"sticker notes"* of abuse to the claimant written in English which she now says, but had not previously said, were translated to her by one of the other Polish workers. None of these notes were retained, none of the words have been recounted to us and no witness has been called to corroborate this part of the claimant's case. Moreover, as Ms Weir pointed out, there are no sticker notes or anything else which could contaminate, either accidentally or by way of sabotage, the food allowed into the production area,. Under cross-examination the claimant appeared to say there were no **sticker** notes but she reiterated something in her grievance letter, see page 163 "*he also wrote down a couple of insulting words relating to my person **on a sheet of paper** and he **stuck it on the wall** so that everybody could see it. I was a popular person in our workplace, so many times **other people asked the Team Leader to change his behaviour but it did not help*".**

3.22. First, Ms Weir says the only sheets of paper allowed into the production area are A4 sheets on which recipes like those used for marinades for the raw chicken

are written. Again, amazingly, if this did happen, the sheet was not retained by the claimant or reported to anybody and not a single witness has come forward on her behalf to say this happened. Moreover, Mr Galey and Ms Weir say, very credibly, they have never seen anything stuck on the wall and we cannot imagine what anyone would use in the sterile environment of the production area to stick a sheet of paper to the wall. No one has come forward to say they ever asked Mr Galey to change his behavior and he denies anyone did. When we asked the claimant about this she said people were afraid to come forward. We reject that completely for reasons which will become apparent when we describe the "Whistleblowing Line".

3.23. The claimant alleges Mr Galey prevented her from washing her hands every hour as required. The rule is workers should wash their hands every 2 hours. Mr Galey denies having any discussions with her about her hand washing for hygiene purposes. There are, however, two matters upon which he admits discussions were had with the claimant on more than one occasion. Any person leaving the production line to go tot the toilet should report their absence to the Team Leader. The claimant did not. She spent an inordinate amount of time in the toilet including washing her hands and was spoken to about this. It is also the case, unpleasant though it is to have to feel chilled chicken through thin plastic gloves which would make the hands very cold, it is forbidden for workers in bone checking to put on beneath their plastic gloves cotton gloves which are supplied in the workplace for other workers to guard against such things as heat in the oven area. The reason is that through the cotton gloves one would not be able to feel a small fragment of bone. The claimant in evidence did not accept this saying she could still feel bones when she wore cotton gloves. We do not accept that , and it demonstrates a point which will be seen to be important , that the claimant , in the words Ms Weir used during the grievance interview page 79.5 " *did not get on with me for one, or Billy. Basically anyone who did not agree with her.. She is the sort of person who wanted to do it her way,no one else's way* " The claimant admits she was caught wearing cotton gloves and says other workers did so as well. Mr Galey accepts other workers of all races occasionally try to get away with this but any one of them caught doing it would be spoken to and stopped. We accept this.

3.24. The claimant alleges she was prevented from changing her apron. We do not believe this occurred but, again, this is an example of where the claimant may not be inventing something but rather misinterpreting it. If a worker removes their apron to go on a break or to the toilet they are supposed to hang it up and put it back on when they return to the production floor. It may be on occasions, the claimant was criticised for not re-using the apron she had taken off but putting on a fresh one.

3.25. The claimant alleges Mr Galey would noticeably watch her. He denies this and we do not accept he did, though the claimant may have perceived it for reasons that will become apparent shortly.The claimant alleges **friends of** Mr Galey would literally shoulder barge her off the production line, sometimes causing her bruising. We cannot accept this either. As Ms Weir says, the claimant's normal work position is that she stands with her back to the wall. It would be difficult to barge her off the production line. She does not name the friends save for on one later occasion. Here, again, there is a some truth in what the claimant is saying in that there were incidents, certainly one incident, when barging took place between staff crowding to

the clocking machine at the end of their shift. Mr Galey got to hear about this and **he** put a stop to it.

3.26. The claimant says Ms Weir **and her friends** barged her too but there is absolutely no evidence to support that. She says Ms Weir told her off for no reason. There is no evidence to support that either but there were occasions when Ms Weir directed criticism at the claimant which she would have directed equally at someone of another race . In the investigation of the claimant's grievance, a Mr Charlie Lewis was asked about the claimant's relationship with Ms Weir and replied " *Is there anybody who does like Val? She is a manager and if everybody liked her she would not be doing her job properly*". Ms Weir herself says she does not overlook things like the claimant wearing cotton gloves . It is beyond belief Ms Weir would condone , let alone encourage , staff to barge the claimant off the production line

3.27. In short, during this period, if the claimant was as popular a person in the workplace as she claims to be, and if her colleagues, particularly Polish colleagues, asked Mr Galey to change his behaviour, we cannot understand why none of these people were prepared to provide a statement to that effect to the investigation of the grievance or to us. The claimant's only answer is they are afraid to come forward.

3.28 The "statutory defence" the respondent has pleaded would, had it been necessary, have been one we would uphold because, not only does it have an equal opportunities policy and give training to Team Leaders and others on its implementation, more importantly, they subscribe to something called "*The Whistle Blowing Line".* This is a service operated not by the company itself but by an independent company which provides the same service to many other companies. Staff are given a telephone number and email address which is well publicised to contact about any concerns. They may do so anonymously and in one of many languages, including Polish. It is not likely, if the claimant was the object of harassment, bullying, taunting, ridicule or any of the other things she claims, whether on racial grounds or otherwise, that nobody on her behalf would have contacted the Whistle Blowing Line in the period of nearly 2 years between the appointment of Mr Galey as her Team Leader and the events we are about to recount.

3.29. As for those events, the dates the claimant gives are plainly incorrect. On her version, all of the documentary evidence would be misdated. We gave the claimant a number of opportunities to make an admission which would have done her case not the slightest bit of harm being that she was wrong by a week. Many witnesses of all nationalities use a phrase like *"…it happened on the Sunday".* When some time later asked *"which Sunday?"* they will quite innocently get it wrong. It was patently obvious in this case what the claimant said happened on 1st August (a Monday) had, in fact, happened on the Monday before, 25th July. Her intransigence in not accepting that innocent mistake damaged her case by showing us what some other people said about her during the grievance investigation interviews, that she could be obstinate, was likely to be true.

3.30. In her witness statement and further particulars, the claimant says the following event occurred on 26th July. In an interview into her whistle blowing complaint, conducted on 2nd August (another date the claimant has wrong) at page 107 she says it occurred on 21st June. Both dates were a Tuesday. Mr Galey's recollection

is it was some weeks before she lodged her whistle blowing complaint, so 21st June is almost certainly correct. On everybody's version it is the **first** of a series of incidents occurring in the summer of 2016 which are at the heart of this claim.

3.31. The claimant pointed out to Mr Galey some overalls under the seats in the changing area where they should not be. She had previously been caught by the Quality Assurance Manager doing this. Her version is that when she pointed them out Mr Galey shouted at her she was a *"Fucking bitch".* His version is that when she pointed them out he asked her if she knew who had done it and she responded aggressively in Polish. We prefer Mr Galey's version. Again, if there was any discussion between the parties there must have been somebody there to interpret for the claimant but she has not called that person as a witness nor tendered a name to the grievance investigator. If there was an occasion when Mr Galey did call her a bitch, this was probably it. It would have nothing to do with her race, it would be in response to her speaking to him *"aggressively",* When giving her evidence, the claimant spoke to the interpreter nearly always at normal speed in a quiet tone of voice. When probing questions, challenging her credibility or integrity were put by Mr O'Brien, and interpreted by Mr Zaborniak, her replies became faster and louder. Mr Galey said that during this incident she was louder than she was in this Tribunal. We would not use the work aggressive to describe her replies here, we would prefer an adjective like *"animated".* However, we fully accept she may have thought Mr Galey was accusing her of putting the overalls there or covering for someone she knew had done so. Mr Galey may have misinterpreted her protestation of innocence, and her tone, as aggression. .Although nothing came of it, this incident obviously left its mark on the relationship between her and Mr Galey at that time.

3.32. The next event we find occurred on 24th July (not 31 July as the claimant alleges in her statement and further paritculars),. The claimant and some agency workers with her on bone checking, had finished their work and were told by Mr Galey to assist in "racking up" . This is a stage in production where chicken is put on to racks ready to go into the oven. She was told by Mr Galey, she would not be expected to do any heavy lifting though he does not say how he communicated that to her in Polish. He says she *"pulled a face"* in protest at having to do this work. She would normally finish at 2pm and start packing up at 1.55pm. At 1.35pm Mr Galey noticed the whole team had stopped work and when he asked an agency worker why, she replied the claimant had told them to. He challenged the claimant about this, as he would have an employee of any race. On his version, she laughed in his face and walked away. He went to fetch Ms Weir , as it is standard practice in the factory if anyone is going to be challenged about any form of misconduct by the Team Leader to get the Production Manager and, of course, in this case, an interpreter. The claimant was told it was not up to her to tell agency staff when to finish. She must have known she was being criticised and reprimanded, by Mr Galey and Ms Weir. In notes of interview (pages 117- 121) into her whistleblowing complaint conducted by Ms Gail Doogan HR Manager, Ms Weir is clear the claimant was not at all happy about that .

3.33. At the end of that shift, as she was leaving the premises Mr Galey was saying *"thank you" ,* as he does to all staff leaving because he believes it maintains good morale. The claimant's case is he said *thank you* to everybody but her, to whom he said *"Fuck you".* She asked if he was talking to her and she says he **shouted** at her

and summoned her to the office next day Mr Galey's version, which we prefer, is he said *thank you* to her and she replied *"Spierdalaj"* He asked her to repeat it in English and she shouted at him. He said he would go to HR in the morning. Ms Weir says Mr Galey does not swear at staff . Mr Galey is described by witnesses interviewed in the investigations as "loud", and he was not softly spoken here. It would be surprising if the claimant's version was correct, that no-one else heard him.

3.34. The 24th July was a Sunday. On Monday 25th July, the claimant rang in sick. She had not slept all night, not because Mr Galey was harassing her, as she says, . but because she knew she was in trouble. On that date, whilst at home, she made a call to the Whistle Blowing Line in Polish about Mr Galey's treatment of her but with no suggestion of race discrimination. The date is plain from the printed record at page 82. It was not on Monday 1st August.

3.35. The claimant returned to work the following day. The Whistle Blowing Line sent notification of the complaint, translated into English, which was not anonymous, to the respondent. A reply to the claimant on 26th July is printed only in Polish at page 82, the gist of which Mr Zaborniak translated as *"We have received your complaint and we are investigating this case We will reply as soon as possible, You can check in a few days if a reply is available".* The Whistle Blowing Line notified the person at the respondent responsible for "Ethics", Mr Gavin Dring. He would then notify the person from HR responsible for that workplace which was a Ms Gail Doogan. It is totally incredible Ms Doogan could have made the arrangements to meet with the claimant in the time scale the claimant's statement would indicate. The claimant says she had meetings with Ms Duggan through an interpreter on 2nd August and 4th August, a Tuesday and a Thursday. Had the claimant's complaint not been lodged until Monday 1st August as she says, Ms Doogan could not possibly have been in a position to see her on Tuesday 2nd August. The dates in the documents given by the respondent are correct, Ms Doogan first saw the claimant on Monday 1st August, a record of which starts at page 86 and, because the meeting lasted a long time and covered a good deal of ground, it was adjourned to resume the following day, 2nd August, a note of which we see at page 100 and following.

3.36. Ms Doogan did a thorough job of interviewing the claimant on those two dates. She then did what Mr Gill and Ms Lafferty did later which was to speak to other people to look for corroboration of what the claimant was saying. She spoke to Ms Weir on 3rd August, page 117, and Mr Galey on 5th August, page 122. She spoke to a Mr Alfred Moulding, a worker in low care on 12th August, Mr Brian Blenkinson, again from low care, page 137, Mr Philip Savin from low care, page 140, and Mr John Donkin from low care, page 146 all on 15th August. The claimant did not give her names of people who were likely to corroborate what the claimant had said. She spoke to Mr George Janowski (a Polish worker from high care) on 5th September, page 144 and he did not corroborate the claimant's case either.

3.37. On 5th September, Ms Doogan, emailed Mr Gill, Ms Lafferty and Mr Dring *"I haven't been able to discover anything whereby Anna has been treated unfairly or where there have been issues of bullying regarding her Team Leader. From the investigations, the witnesses stated it was Anna who was 'out of line' in the way she spoke to the Team Leader. This was the day before she posted her issues on the Whistle Blowing Line. In getting to the root cause of her concerns, it still remains*

that her Wellington boots going missing and her having to rewrite her holiday forms are the two events which link (sic) *her to feel her Team Leader is bullying her. We have no evidence it was the Team Leader who moved her boots. I understand that it is inconvenient to have to write the forms out again, however, the holidays were granted and on occasions, paperwork does go missing.*

3.38. The claimant complains of events between 3rd and 11th August . She was on annual leave from 14th August. On 22nd August, part way through that leave she went to her GP who certified her sick until 5th September. When she took her sick note to the work place on 26th August she was told to see the occupational health nurse who agreed she was too ill to come to work. We will come shortly to what she said to the nurse The claimant says the mere act of sending her to the nurse was harassment but, in our judgment, it was plain routine.

3.39. Ms Doogan's findings having been relayed to Mr Dring, he suggested a response that would be posted electronically on the Whistle Blowing Line. It is important to realise what we accept the claimant **may** not, that the respondent would **never** reply directly to her, with an" outcome", as she called it. It would go through the Whistle Blowing Line. The response was posted on there on 8th September at 13.10, page 161, and it did not uphold the claimant's complaint.

3.40. The claimant alleges she heard Ms Weir and Mr Galey on 3rd or 4th August. talking about what was supposed to be her confidential complaint and meetings with Ms Doogan to discuss it, and they were **laughing**. Both deny that conversation saying they knew nothing until spoken to by Ms Doogan on 3rd and 5th respectively However, the claimant spent several hours on 1st and 2nd August , not as she alleges 2nd and 4th, away from her workstation in those meetings with Ms Doogan . At each, a member of staff who spoke Polish accompanied her It is very possible she overheard Ms Weir and Mr Galey mention her name and that she was "upstairs" (a reference to the offices where meetings are held) , but she would not understand what else they said. They would have no reason to recall their discussion. If they were laughing , there is no reason to think it was about the claimant or her complaint.

3.41. She alleged originally in her grievance and her statement that on Thursday 4th **an English employee who is a friend** of Mr Galey threw a piece of meat at her and somebody later that day as she was leaving threw a shoe at her, hitting her on the head. She says **the same conduct** was repeated on Thursday 11th August. She also says on Monday 8th or Tuesday 9th August, " *a number of work colleagues*" , including a man called Phil Padgett , walked passed her shouldering her off the production line and causing her bruising.

3.42. The claimant did not withstand cross-examination at all well on these points. She appeared to retreat from her version of 4th August almost completely. At a meeting with the occupational health nurse on 26th August (the day she complains she was coerced into seeing that nurse) which the nurse recounts in an e-mail of the same day(page 153) , the claimant said, through an interpreter colleague Alisha Rompska, about the 4th August she did not know who threw the meat so could not know it was friend of Mr Galey. A black ladies shoe hit her on 4th August but she did not see who threw it . On 11th August she says in her statement "the same thing happened" but she told the nurse the shoe " just missed" and she did not see who

threw it. The claimant protests all this should be visible on the CCTV. Like most such systems, it deletes itself periodically but we accept the respondent's version that, insofar as they did manage to inspect CCTV, there was nothing there showing who, if anybody, had thrown the shoes or the meat. If any of this happened as described by the claimant, it is not credible that no fellow employee saw anything nor that all who did are "afraid " to come forward.

3.43. We do not believe it is a co-incidence the claimant raised her written grievance on 12th September, shortly after the Whistle Blowing Line report had been posted on the 8th . The claimant says she never realised she had to go back to the Whistle Blowing Line to obtain an "outcome" , but she was told to contact it , in Polish. The grievance at page 162-164 recounts, with all the same mistakes as to dates, the events which we have just set out. On two occasions, on page 163, the claimant is quite clearly intimating she believes her race has played a part in the treatment of which she complains, which is why this is a protected act. unless made in bad faith.

3.44. Mr O'Brien's case is contact with the Whistle Blowing Line was made as a shield when the claimant knew, due to the events of 24th July, she was in trouble, and the grievance letter was a continuation of the claimant's policy of " *attack is the best method of defence.*" We find there is a measure of truth in that, but it does not mean it is for certain not a protected act when we apply the law as explained in **Street**. at paragraph 2.8 above . However, the case does not turn on that point.

3.45. At the bottom of page 163 there is a sentence. *"I suffer from unsettled stomach and I cannot sleep, so **I have decided to hand in my notice**."* To the majority of people, that would read as a resignation in itself. The respondent's officers so read it. They do not contend, and never would have, this would prevent the claimant from pursuing her grievance. The claimant was processed as a leaver, by taking her off the payroll after her contractual notice period expired and her sick notes were not processed for Statutory Sick Pay. There was a perfectly explicable delay in starting the investigation into her grievance, her letter not having been received by the respondent until 14th September. Ms Lafferty was on leave, as were other key people. Ms Doogan, very properly, recused herself from dealing with the matter and asked for another HR officer to be appointed. There was no one better than Ms Lafferty, the Head of HR,

3.46. On 3rd October, Ms Lafferty wrote to the claimant inviting her to a grievance hearing on 14th October, enclosing a copy of the grievance procedure. Ms Lafferty did not deal with payroll matters. On Friday 7th October, Ms Doogan wrote to the claimant, acknowledging her letter as a resignation as well as a grievance. The first sentence of the second paragraph reads *"We are obliged to accept your resignation despite the outstanding grievance."* The claimant was off sick at the time so this letter would have been posted and it is unlikely the claimant would have received it before Monday 10th October. When she did, she would have had to have it translated . She then had somebody write a letter for her , at page 172 saying she had not resigned . The innocent explanation for it being dated 12th September, which is plainly wrong, is the author used the same template on a computer she had used for the grievance letter and forgot to change the date. We do not think it would have been posted before 12th October and we accept the evidence of Mr Gill and

Ms Lafferty they had not seen it when the meeting started on 14th. Our main reason for so accepting is there was no mention of the letter at any time in the interview.

3.47. As a result, Ms Lafferty did say to the claimant she had resigned. The claimant argued she had not, saying any ambiguity was probably due to translation from Polish. We accept the claimant believes what she wrote meant not *"I **have decided** to hand in my notice"* but *"I have decided **I will hand** in my notice"* at some future date. During the meeting, Ms Lafferty said that is not how it read and, quite properly, that the company would have to take legal advice on that point . When it had done so, it accepted the claimant had not **meant to** resign and reinstated her to the payroll. The claimant's criticism of Ms Lafferty and her claim of victimisation in this respect is wholly misconceived. This was a simple misunderstanding. Ms Lafferty saw the 12th September letter as **resignation and grievance combined**, something we see in a large number of cases.

3.48. The claimant's other complaint of victimisation relates to the general handling of this grievance which she says was done by Mr Gill, assisted by Ms Lafferty with the intent of covering up what they knew to be discrimination on the part of some employees of the respondent, notably Mr Galey and his friends. In our judgment, nothing could be further from the truth. The investigation was as thorough and even handed as any we have seen. They took no further action against other staff for one reason only—lack of evidence .

3.49. The claimant has always said her Polish colleagues would, if asked, stand up for her. None of them did. Ms Rompska and Mr Stasys Podzius, interviewed on 7th November, Ms Renata Wasilek and Mr Pawel Piszczek, interviewed on 16th November, all failed to corroborate anything resembling the claimant's full allegations though they did make some interesting observations which show parts of what was being said, were misinterpreted by the claimant. Ms Rompska, at page 77, makes one comment that helps the claimant slightly but many more that do not. When asked how the claimant got on with Ms Weir, Mr Galey and herself, her reply was it would be alright if she could speak English, and that when she would speak Polish they "*would not like it"*. This is not something the claimant has pleaded or argued.

3.50. All the Polish people expressed the view the claimant's main problem was she does not speak English at all despite having worked at the respondent's factory for 7 years . She also comes across to other people as aggressive and uncooperative. Many witnesses were even more direct, especially a man called Charlie Lewis whose interview is at 79.1 - 79.4. He stood very close to where the claimant worked on Bone Inspection. He made various observations about her difficulty in dealing with orders given to her by Team Leaders, for example: -
"She did not like anyone official; she didn't like them"
"Team Leaders, managers, supervisors, I was put in charge for 6 weeks and she turned against me. When I went back to my normal job she was happy. For 6 weeks she resented me."

3.51. Mr Lewis gives more detail than we need recount, but it all explains why the claimant had sometimes difficulties with colleagues which a person of any race would have in equal measure. He recalls the claimant having words with Mr Galey on 2 or 3 occasions but never heard Mr Galey swear at her. He says of the claimant:

"you would say to her 'what is wrong' and she would push you away. I would be saying that I am trying to help you. Then she would go to the toilet and not speak to anyone and later she told Billy to 'fuck off', at the least thing she would be at Billy. She did not like him at all."
He talks about her pulling a face at Mr Galey behind his back. He gives an account of some shoe throwing incidents in the changing room saying *"It was just random, it was not aimed at Anna".*

3.52. The only person who gives some information that, at some point in time, something was done to the claimant which would probably be because of her race, is, of all people, Mr Phil Padgett, the person she accused of throwing meat at her. He says at page 72: - *"She does not understand what people are saying. They say like rude things, she does not know what they are saying. That is how it felt it comes across that she cannot understand."*
When asked to clarify this somewhat cryptic note , Mr Gill explained Mr Padgett was recounting one or two episodes during which English people would get the claimant to say a rude English word and then laugh about it. This is not something the claimant has pleaded or argued.

3.53. Mr Podzius says he heard the claimant complain someone had said *Fuck you"* to her but he did not hear this. He corroborates she argued with Team Leaders, in particular, Mr Galey, who is about half the claimant's age, He also says *"people are swearing all the time, it is a bad habit."*

3.54. In the grievance result meeting, held with the claimant on 9th January 2017, Mr Gill read through the outcomes which were, in effect, repeated in an outcome letter. The abiding theme of both was he could find no corroboration of what the claimant was alleging which was a concerted campaign of racial harassment over a period of time. He sums it up at page 210.
"In conclusion other than some instances where you and other colleagues may have had some humorous interaction there was no evidence to substantiate your allegations that you have been harassed by a supervisor, Billy Galey and that his behavior encouraged others to treat you badly nor that you were physically and emotionally harassed for 2 years."

3.55. When asked if she had anything else to say, the claimant replied: -
"Unfortunately, I was quite convinced by people that they would support me. The workers you spoke to would not testify against managers. Have you spoken to any Polish ? Amjei, Mechal, Renata, Alisha, Pawel ?"
Ms Lafferty replied immediately they had spoken to the last three. It appears the claimant had not tendered the other two as being able to give any supporting evidence for her. We also completely reject the claimant's explanation for no-one supporting her, repeated in her oral evidence to us, that people were *"afraid"* to complain. Those who were spoken to did not give explanations and answers which were entirely in favour of managers. During the interviews Mr Gill and Ms Lafferty probed and challenged people who appeared only to support Mr Galey and Ms Weir and actively looked for evidence to support the claimant. If even what the claimant says was even partly accurate , other people must have witnessed it and at any time, could have accessed the well-publicised Whistle Blowing Line.

3.56. It is possible the claimant made her complaints at least in part, to shield herself against what she knew was trouble heading her way. However, our decision on the victimisation claim need not turn on that point. **She was subjected to no detriment at all as a result of having raised her complaint**. Ms Lafferty questioned her resignation purely because that is how the letter read An impeccable investigation followed and the only reason for not upholding her complaint was a total lack of corroborative evidence.

4.Conclusions

4.1. The overwhelming impression we get of the respondent from what we heard and read , especially the grievance interviews, is of a multi racial workforce which get along well, have a joke with each other and swear in each other's languages.

4.2. The overwhelming impression we get of the claimant is she was not happy working in the low risk area. She viewed Mr Galey as loud, coarse and condoning the taking of excessive breaks by agency staff he found attractive in 2014. She took badly to receiving instruction from superiors, especially the much younger, recently promoted Mr Galey. She had some altercations with him when she refused to accept orders. The claimant says because she is Polish , her English is not good, she cannot understand what people are saying about her , that she cannot stand up for herself. The evidence is she stands up for herself fearlessly, making complaint about work she is asked to do and about colleagues including team leaders and managers.

4.3. During June and July 2016, she put together in her mind previous incidents, from her first making a complaint about what she saw as Mr Galey's favouritism, through the separate minor incidents we covered at 3.17-3.26 above and culminating with the 21st June 2016 and 24th July 2016 confrontations .She formed a view, which evidence does not sustain, that Mr Galey orchestrated a campaign of harassment.

4.4. When her complaint to the Whistleblowing Line did not produce the result she wanted , she added that this campaign was an act of race discrimination. She did so because her feeling of isolation stemming from her inability to communicate in the English language with work colleagues, caused her to think that if people were laughing or swearing they were doing so **at her** .

4.5. The claimant has not proven primary facts, which she has pleaded or argued, from which we could infer race or her protected act had anything to do with her treatment or facts which it would be reasonable for her to perceive as harassment related to race. On the few occasions we could see facts from which we could infer the claimant was treated in a way she did not like, eg being told off for wearing cotton gloves, the respondent fully explained. its actions were in no sense because of race. The incidents of getting her to say rude words in English and Mr Galey on one occasion being down on one knee serenading her in a mocking fashion are not pleaded allegations upon which we can adjudicate.

4.6. Mr O'Brien firmly but fairly put the highest point of his case to the claimant that she had cynically invented many of her allegations in an attempt to win compensation to fund her retirement. If we agreed, we would consider ordering costs. Mr Owen too said this is a case in which we must find either the respondent's

witnesses are **lying** or his client is. We disagree with both extremes. There is a difference between credibility and reliability. As Lord Justice Sedley said in Anya *"A witness may be honest and credible but mistaken."*

4.7. Mr Padgett describes the claimant as " *the older Polish lady*" and it does appear most of her colleagues and managers were younger. We found her to be somewhat obstinate and opinionated, which caused her to appear to others as insubordinate. However, we found little, if any, pure invention, a good deal of embellishment and exaggeration and a great deal of misunderstanding and misperception on her part. Allowing for the possibility exaggeration may appear more so in translation from another language , we do not find the claimant has acted vexatiously or unreasonably in bringing or conducting the case .

T M Garnon EMPLOYMENT JUDGE

JUDGMENT SIGNED BY EMPLOYMENT JUDGE ON 10th AUGUST 2017

JUDGMENT SENT TO THE PARTIES ON

11 August 2017

G Palmer

FOR THE TRIBUNAL