



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms M Fitzgerald

**Respondent:** Cherry Orchards Care Ltd

**Heard at:** Bristol (in person)

**On:** 2 April 2024

**Before:** Employment Judge Cuthbert

**Appearances:**

For the Claimant: In person

For the Respondent: Did Not Attend

## JUDGMENT

### Employment Tribunals Rules of Procedure 2013 – Rule 21

1. The claim was presented in the Bristol Employment Tribunal on 24 May 2021. The respondent's response to the claim was struck out on 28 December 2023 on the basis that the respondent was not actively pursuing its defence to the claim. The present hearing was listed on 28 February 2024 and the respondent was notified of the hearing.
2. The Employment Judge decided that a determination could properly be made of the claim, at the hearing, in accordance with rule 21 of the Rules of Procedure.
2. The claimant made protected disclosures within the meaning of section 43B of the Employment Rights Act 1996.
3. The principal reason for the claimant's dismissal was the making of the protected disclosures and so the dismissal was automatically unfair.
4. The claimant was also subjected to a detriment, by way of the provision of a negative reference by the respondent, on the ground that she had made protected disclosures.
7. The claimant's claims succeed and the remedy to which the claimant is entitled is set out in a separate judgment on remedy.

**Case No: 1401992/2021**

Employment Judge Cuthbert

Date: 2 April 2024

JUDGMENT SENT TO THE PARTIES ON  
16 April 2024 By Mr J McCormick

FOR THE TRIBUNAL OFFICE