



# THE EMPLOYMENT TRIBUNALS

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**Claimant:** Mr Duffort

**Respondent:** The Co-operative Group Limited

## JUDGMENT

The judgment of the Tribunal is that the Claimant's unfair dismissal claim is dismissed.

## WRITTEN REASONS

### Introduction and background

1. The Claimant, Mr Duffort, was employed by the Respondent, The Co-operative Group Limited, as a Member Pioneer from 15 June 2022 until his resignation on 4 September 2023.
2. ACAS early conciliation started on 30 June 2023 and ended on 3 July 2023. The claim form was presented on 19 July 2023. The response form was received on 25 September 2023.

### Claims

3. The Claimant's claims were originally for:
  - a. Discrimination on the grounds of sexual orientation
  - b. Discrimination on the grounds of age
  - c. Harassment
  - d. Unfair dismissal
4. Claims (a) - (c) were dismissed by my judgment which was sent to the parties on 10 April 2024. Written reasons were also subsequently requested and provided on 10 July 2024.
5. The only claim that remained live was the one for unfair dismissal. The Claimant accepted at the 9 April 2024 Preliminary Hearing that he did not have two years' service in order to bring an ordinary unfair dismissal claim (as required by section 108(1) of the Employment Rights Act 1996 ("ERA").

However, he indicated that he wished to bring an automatic unfair dismissal claim, which does not have a two years' minimum service requirement.

6. I agreed that the Claimant could make a written application to amend his claim to one of automatic unfair dismissal in which he must explain his grounds for such a claim. He did that by letter to the Tribunal dated 23 April 2024. The Respondent provided the Tribunal with its written response by letter dated 30 May 2024. I have carefully considered both of those written submissions.

### **Amendment application**

7. There are various categories set out in legislation that specify automatically unfair reasons for dismissal. However, the Claimant has not provided anything in his application to suggest that any of them apply here.
8. The amendment application largely reiterates the same facts on which I heard evidence at the 9 April 2024 Open Preliminary Hearing at which the Claimant gave evidence under oath.
9. It is clear that the Claimant believes that he has grounds for constructive dismissal. He bases this on alleged conduct by the Respondent that the Claimant says show procedural flaws, a lack of adherence to the ACAS code and an overall breakdown in 'mutual trust and confidence'. The Claimant's amendment application refers to a number of employment law cases to support that view. However, these cases do not relate to automatic unfair dismissal; they relate to constructive dismissal and 'mutual trust and confidence'.
10. The Claimant also alleges that there have been GDPR and other data-related breaches by the Respondent. However, these are not within the jurisdiction of the Employment Tribunal and add nothing to the amendment application.
11. My conclusion is therefore that the Claimant has failed to establish that his claim for constructive unfair dismissal is one to which the two year qualifying period for ordinary unfair dismissal (in section 108(1) of the ERA), does not apply.
12. His amendment application is refused and, because he does not have two year's qualifying service, his unfair dismissal claim is dismissed.

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Employment Judge Robinson

Date 23 July 2024

JUDGMENT AND REASONS SENT TO THE  
PARTIES ON

24<sup>th</sup> July 2024

FOR THE TRIBUNAL OFFICE

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