



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms M Touray  
**Respondent:** Sahara Care Limited  
**Heard at:** East London Hearing Centre (by CVP)  
**On:** 13 and 14 June 2024  
**Before:** Employment Judge Iman

## **Representation**

**Claimant:** Self- represented  
**Respondent:** Mr McCrossan (Counsel)

# JUDGMENT

These reasons are produced at the request of the claimant. An oral judgment was issued in respect of this claim on the final date the matter was listed for a final hearing with a judgment being issued. Judgment was sent to the parties on 21 June 2024 and written reasons having been provided in accordance with Rule 62(3) of the Employment Tribunal Rules of Procedure 2013.

## **Preliminary matters**

1. Mr McCrossan sought to admit into evidence the witness statement of Mr Lesley Wilkins and a document which captured the chronology. He explained that Mr Wilkins now works for another employer and therefore this had resulted in some delay in obtaining the evidence. The witness statement was signed as recently at the 12 June 2024. Miss Touray objected to the admissibility of the evidence stating that she had only been provided with the documents very recently and had not had an opportunity to read them.
2. The Tribunal balanced the fact that Mr Wilkins was not attending the hearing to give direct evidence but considered that it was relevant evidence for the Tribunal as he was the Home Manager at the relevant time and he was also the line manager of Miss Smith. Further, the Tribunal could determine what weight to attach the evidence. The Tribunal allowed a short break for Ms Touray to read the chronology and the witness statement. Following the break Ms Touray explained that she had read both the chronology and the witness statement. The witness statement was admitted into evidence in accordance with the overriding objective and the interests of justice.

## Background

3. The Respondent is a care home provider that specialises in delivering residential care home services in London and Essex since 1997. The Respondent supports people with complex care needs, including learning disabilities, physical disabilities, complex multiple disabilities, autism and challenging behavioural needs. The Respondent is registered with and regulated by the Care Quality Commission.
4. The Claimant was employed by the Respondent as a Support Worker. The Claimant commenced employment on 11 January 2017. The Claimant worked at Sahara Parkside, which provides specialist accommodation, 24-hour care and support for adults with learning disabilities and who may have other conditions including sensory impairment, a physical disability or other complex needs. The purpose of the Claimant's role was to support clients to live as independent a life as possible in accordance with their personal support plan.

## Issues

5. The Claimant makes several main submissions on liability for unfair dismissal, and submits that collectively these grounds should persuade the Tribunal that the decision to dismiss was outside the band of reasonable responses and procedurally unfair.
  - 1) That the Respondent breached the ACAS code by conducting the disciplinary meeting in her absence;
  - 2) That the decision to dismiss was predetermined and that the Respondent had already decided to dismiss her;
  - 3) That there were several refusals for her requests for paid leave and annual leave and that the Respondent had unreasonably failed to take into account her personal circumstances when declining her request for leave;
  - 4) The Respondent demonstrated a lack of compassion and empathy in that regard;
  - 5) The Respondent had erred in provided her with the disciplinary notes which was inherently unfair;
  - 6) That the Respondents decisions to dismiss was outside the band of reasonable responses;

## Evidence

6. I have considered the oral evidence and the documentary evidence presented. If aspects of the evidence are not mentioned below that is only because I have only referenced aspects of the evidence that are required

to explain my decision. The parties have provided me with oral submissions which I have taken into account.

7. The Tribunal heard oral evidence from Mr McDermott and Miss Smith and had the witness statement of Lesley Wickens. The Tribunal found the Respondent's witness to be reliable, persuasive and fair and accepted their evidence. They were seeking to assist the Tribunal and made concessions where appropriate. Mr Wilkins statement corroborated the evidence of Mr McDermott and Miss Smith.
8. I found the evidence from the Claimant to be changeable and inconsistent at times. I did not find her a persuasive witness due to the changeability of her responses. An example of this in her witness statement it explains that there was a 2 day stay in Turkey (where internet connectivity was better) but in her oral evidence she accepted that this was a 5 day stay.
9. Further, there is a process that employers are expected to follow and there are essentially three questions for the Tribunal to answer;
  - 1) What was the reason or principal reason for the dismissal?
  - (2) Having regard to that reason, was the dismissal fair or unfair?
  - (3) If the dismissal was unfair, what is the appropriate remedy?

### **Findings of Fact**

10. This was a case that a large part of the chronology of events was captured in emails. However, for completeness I have set out below the Tribunals findings of fact after hearing the evidence.
11. The Tribunal found that in order to protect the health, safety and wellbeing of the vulnerable adults in the Respondent's care, the Respondent must comply with minimum staffing ratios. In addition, in order to ensure the health, safety and welfare of its staff, the Respondent must balance holiday/time off requests against staffing numbers to ensure those that are working can meet the required ratios whilst also having sufficient rest breaks.
12. The Tribunal found that Claimant's contractual hours were 20 hours per week and she worked night shifts on a rota basis.
13. Further, that on 14 May 2023, the Claimant requested 3 weeks annual leave for the period 14 July to 11 August 2023 the reasons given in writing were that travel was required to the place of origin due to unfortunate family obligations. On the 07 June 2024, the request was declined due to business needs and other staff members already being on leave at that time.
14. The Claimant challenged the Respondent's decision to decline the annual leave request on the 27 June 2023 and gave the reasons as emergency family issues and her elder brother being very ill and the situation taking a

toll on her mother's health as she was his carer. On 4 July 2023, the Respondent held a meeting with the Claimant to discuss the request. The Claimant again provided details of her personal circumstances in respect of the declining health of her brother and the need to assist her elderly mother in his care.

15. Due to the Claimant's personal circumstances, the Respondent subsequently agreed to facilitate two weeks of paid leave over the requested period which was communicated on the 14 July 2023. The Respondent also confirmed that it could not facilitate the original three-week request, either as paid or unpaid leave on the 11 July 2023. This was in response to the claimant's email also dated the 11 July 2023 in which she stated that she was unable to cancel the trip as her brother was gravely ill and dying and her mother required her assistance and that she would not be available for her shift on the 14 July 2024 and therefore she was requesting unpaid leave for 3 weeks.
16. On the 18 July 2024 a request for unpaid leave of 2 weeks was requested due to her brother's illness. This was refused on the 19 July 2024.
17. The Claimant subsequently went on leave. The Claimant was due to return from leave on 28 July 2023. The Claimant failed to return from leave.
18. The Tribunal found that it was the respondent, namely Miss Anne Smith line manager on the 27 July 2023 who contacted the Claimant to establish when she would return.
19. On the 28 July 2023 after her line manager had sought to contact her to establish if she was in the country the Claimant sent an email stating that she had not yet returned as her brother was in a fragile state and that she could not leave him. She also went on to state that she understood that she would not be paid for the extra days now being taken as annual leave.
20. The Respondent commenced an investigation. The Claimant was sent the invitation to the investigatory meeting on the 11 August 2023 and the investigatory meeting was scheduled for the 17 August 2023. The Claimant did not attend the investigation meeting. The Claimant informed the Respondent on the 16 August 2023 that she would not be able to attend the Investigatory meeting on the 17 August 2023 as she was out of the country, that she was unable to attend via teams due to the poor internet connection and her availability as she was spending time in the hospital as her brother was gravely ill and in palliative care. She explained that she would be returning to the United Kingdom in about 2 weeks and would be in touch with them as soon as she was able to leave Gambia.
21. The investigatory meeting went ahead on the 17 August 2023. The Respondent invited the Claimant to a disciplinary hearing, which took place on the 1 September 2023. The Respondent's invitation to disciplinary hearing was sent on informed the Claimant in general terms as follows:
  - a) The disciplinary hearing was scheduled for 1 September 2023.

- b) Details of the allegations against the Claimant:
- i) On 28 July 2023, the Claimant failed to return from annual leave;
  - ii) The Claimant's conduct had led to the Respondent's service being short staffed.
  - iii) That the allegations against her, if proven would constitute gross misconduct offences.
22. Letters and emails in respect of the annual leave request were also attached to the notification of the hearing.
23. By email dated Friday 25 August 2023, the Claimant informed the Respondent by emails that her brother had passed away on the 21 August 2023 and that she would 'surely' be returning that weekend.
24. The Claimant failed to attend the disciplinary meeting. The Claimant did not provide a written statement for consideration. The disciplinary hearing took place on the 01 September 2023 at 10am in the Claimant's absence and a letter was sent informing the Claimant that she had been summarily dismissed.
25. On Friday 01 September at 17:03 the Claimant sent an email to the Respondent stating that she was on her way to the UK and returning to work as soon as possible but that she had encountered difficulties due to the cancellation of flights.
26. By email dated 11 September 2023, the Claimant submitted an appeal. By letter dated 15 September 2023, the Respondent invited the Claimant to an appeal hearing scheduled for 22 September 2023. The Claimant's appeal was not upheld.
27. The Tribunal found that that the manner in which the company deals with leave requests is fundamentally tied to safeguarding. There is no policy or procedure in that require the company to contact staff to check their return date from leave. It is expected that employees will return from leave on time and that they will be available to work the shifts that they are assigned once they have returned from leave. Therefore, the employer was expecting the Claimant to be ready and available to work on 29 July 2024.
28. The Tribunal further found that the Claimant's absence placed the service and her the management under pressure trying to ensure that it could operate at safe levels for an indeterminate period of time and staff were asked if they could pick up extra shifts and her actions potentially placed service users at risk.
29. In her email of the 16 August 2023 the Claimant cited that she was unable to join a Teams Call due to poor internet connectivity and her availability as she spent most of her time caring for her brother.

30. The Tribunal found that the correspondence sent by the Claimant whilst she was in Gambia to the Respondent on 18 July, 28 July, 16 August 2023 and 01 September was minimal and was lacking in clarity and certainty in respect of her return date.
31. The Tribunal did not accept that the connectivity issues in Gambia were challenging to the extent that no communication could be undertaken by the Claimant or that they precluded her making arrangements and attempting to join meetings. In fact she did make a Whatsapp call to Miss Smith (which was not answered) and did send an email in respect of her non-attendance at work on 28 July 2023 and sent an email to the Respondent in respect of the investigatory meeting on the 16 August 2023.

### Relevant Law and Conclusions – Unfair Dismissal

32. Section 94 of the Employment Rights Act 1996 gives employees the right not to be unfairly dismissed. Section 98 of the 1996 Act deals with the fairness of dismissals. There are two -stages within section 98. First, the employer must show that it had a potentially fair reason for the dismissal within section 98(2). Second, if the respondent shows that it had a potentially fair reason for the dismissal, the Tribunal must consider, without there being any burden of proof on either party, whether the respondent acted fairly or unfairly in dismissing for that reason.
33. Section 98 (4) generally and provides that the determination of the question whether the dismissal was fair or unfair, having regard to the reason shown by the employer, shall depend on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee; and shall be determined in accordance with equity and the substantial merits of the case.
34. In misconduct dismissals, there is well-established guidance on fairness within section 98(4) in the decisions in **Burchell 1978 IRLR 379 and Post Office v Foley 2000 IRLR 827**. The Tribunal must decide whether the employer had a genuine belief in the employee's misconduct. Then the Tribunal must decide whether the employer held such genuine belief on reasonable grounds and after carrying out a reasonable investigation.
35. In all aspects of the case, including the investigation, the grounds for belief, the penalty imposed, and the procedure followed, the Tribunal must decide whether the employer acted within the band or range of reasonable responses open to an employer in the circumstances. It is **immaterial** how the Tribunal would have handled the events or what decision it would have made, and the Tribunal must not substitute its view for that of the reasonable employer (Iceland Frozen Foods Limited v Jones 1982 IRLR 439, Sainsbury's Supermarkets Limited v Hitt 2003 IRLR 23, and London Ambulance Service NHS Trust v Small 2009 IRLR 563).

**What was the reason or principal reason for the dismissal?**

36. I am satisfied that claimant was dismissed for a conduct related issue, namely failing to return to work on the 28 July 2023.

**Did the Respondent believe that the Claimant was guilty of misconduct?  
And if so was it based on reasonable grounds.**

37. I am satisfied that the Respondent believed that the Claimant was guilty of misconduct and that it was a belief based on reasonable grounds. The emails contained in the bundle of evidence demonstrated that the Claimant's request for 3 weeks leave and unpaid leave were not authorised. The Respondent's witnesses were clear as to why they did dismiss and the dismissal letters also set out the reasons carefully.
38. The claimant contract at clause 8 states in general terms that:
- a) The home manager will try and co-operate with an employees plans wherever possible;
  - b) Employees must not book holidays until the request had been formally authorised in writing.
  - c) No more than two weeks holiday may be taken in one go without the prior written agreement of the home manager.
39. No agreement was given for the duration of the absence that the Claimant ended up taking.

**Had the employer carried out a reasonable investigation**

40. I am satisfied that a reasonable investigation was carried out. A significant amount of correspondence that was sent between the parties discussing the annual leave requests was contained within the evidential documentation in email trails or WhatsApp messages between the Claimant and the Respondent and copies of these were provided to the Claimant. I therefore consider that the steps taken by the employer in respect of the investigation were reasonable and I consider that the Respondent took the necessary steps to try to obtain the Claimant's explanation.
41. The Claimant also explained in her evidence that due to her brother's death that she was feeling emotional and overwhelmed at the time. I accept that this was a difficult time for the Claimant and her family however, I see no reasonable exceptional circumstances that were communicated to the Respondent that meant that they should have concluded that she was unable to attend the Investigatory Meeting and the Disciplinary Meetings through other means despite being abroad and/or at the very least requesting that they be re-scheduled to certain specific dates when she could join.

**Did the employer follow a reasonably fair procedure?**

42. I am satisfied that the employer carried out a reasonably fair procedure. I note that in respect of the investigatory meeting that it was offered that the meeting could take place by video conferencing or by telephone. In her e-mail dated the 16 August 2023 the Claimant explained to the Respondent that she would not be attending the meeting as she would be out of the country and intended to return in 2 weeks and that she would be in touch when she was back in the UK though did not specify a date. I consider that it was reasonable to proceed in her absence for the investigatory and disciplinary meetings due to the lack of clarity in respect of her return date, protracted communications and the fact that other options of joining remained open to the Claimant.
43. On Friday 25 August 2023, after the Claimant informed the Respondent that her brother had passed away, that his funeral had taken place and that she would be "surely returning that weekend." The Claimant did not return to the UK, nor did she further explain her whereabouts until after the disciplinary meeting. She did not attend the disciplinary meeting, she did not send any statements, nor did she contact Mr Wilkins in advance of it taking place to discuss attending or re-scheduling. Therefore, the disciplinary hearing went ahead, and I consider it was reasonable for the Respondent to proceed in the circumstances.
44. I consider that there were sufficient and reasonable details of the allegations given to the Claimant and she did not attend either meeting. There was no cogent evidence before me that the Claimant could not engage with the meetings in any other meaningful way and/or request a postponement to specific dates and therefore I consider it reasonable for the Respondent to proceed.
45. The Claimant explained in her written evidence that due to the poor connectivity that she did not receive the 11 August 2023 invitation until 17 August 2024 at 3pm and the invitation to the disciplinary hearing on the 01 September 2024 whilst at the airport. In her oral evidence she corrected this to the 16 August 2024 in respect of the investigatory meeting. I consider the Respondent had sought to give the Claimant reasonable sufficient notice of both hearings and that she had failed to communicate with them in a timely manner and provided a lack of certainty in respect of her absence and her return date and that she did not seek to communicate with her employer in the manner required by them.
46. I note that a fit note was backdated it was submitted to the Respondent mid- September and was back dated to the 07 August 2023 and sets out that the Claimant was not fit to work but did not explain that she is unable to communicate with her employer nor did it make reference to her not being able to attend meetings.
47. I accept that no disciplinary meeting notes of the meeting were sent to the Claimant which is not in accordance with ACAS guidance. It is difficult to establish if these notes did exist. However, given the full and comprehensive



appeal that took place by the respondent and given that a large amount of evidence was documentary and involved communications sent by the Claimant I do not consider that the failure rendered the process unfair.

48. The Claimant attended the appeal and was provided with a full opportunity to state her case and expanded on her letter of appeal. I accept the evidence of Mr McDermott that as the dismissal had taken place in the Claimant's absence due to her nonattendance at the disciplinary hearing, he was very careful to ensure that she and her union representative were given an opportunity to put forward all representations and supporting evidence which is evidenced in the transcript of the appeal hearing and that he considered all of the available evidence including the representations made by the Claimant and her union representative. I am satisfied that he did so,
49. Particularly, the Claimant's reasons for non attendance at the disciplinary hearing was that her flight from Turkey to London was cancelled. I am satisfied that it was reasonable for the Respondent to consider that the Claimant could have reasonably contacted the company in advance of the disciplinary hearing to request the date be rearranged. The Claimant did send an email but at 5pm on the 05 September 2023. The disciplinary hearing took place at 10am on the 05 September 2023 and therefore I am satisfied that this was taken into account by the Respondent.

**Was the response within the range of reasonable response?**

50. The Tribunal is satisfied that the Respondent's conclusion that the Claimant's lack of communication with the Respondent in respect of her return date and her failure to return to work constituted gross misconduct that it was within the range of reasonable responses as was the decision to summarily dismiss her.
51. The Claimant indicated in her appeal hearing that she should have been granted the annual leave in the first place. This was plain to see in the transcript of the appeal and in her oral evidence. The Claimant did not consider the difficulties that she had left the Respondent in nor the service users. She was an experienced employee and her actions led to placing her employer in difficulties and potentially placing service users at risk.
52. Though it is accepted by the Respondent that the passing of a loved one is very difficult this did not mean that Claimant could not be open and transparent and timely in her communication with her employers and given the timing of her brother's sad passing was some weeks after the Claimant was expected to return to work.
53. The letter of 04 September 2023 in respect of the disciplinary hearing sets out that the Respondent had taken into account the Claimant's failure to return from leave, employment position, length of service, experience and individual circumstances and whether a lesser sanction would be appropriate. The Respondent had not been able to identify any mitigating circumstances as her return to the UK and her brother's passing were several weeks after the Claimant was due to return to work. It was

reasonable for the Respondent to expect the Claimant to communicate with her employer as to her return date and keep them appropriately updated therefore I consider the conclusions made in the 04 September 2023 and 10 October 2023 outcome letters to be reasonable and within the range of reasonable responses.

54. Also on the 11 July 2023, despite initially refusing the request the Claimant sent an email to the respondent requesting unpaid leave and stating that she would not be available for her shift on 14 July 2023 and could not cancel her trip. Mr Wilkins granted the 2 weeks paid leave as she had stated that she would not be available for 2 weeks. On 18 July 2023, 4 days later the request for further 2 weeks unpaid annual leave is requested and it was declined on the 19 July 2024.
55. Further, the initial refusal culminated in a meeting on the 04 July 2023 between the Claimant and Steve McDermott. given the importance of the conversation the Claimant was clear about the granting of only 2 weeks paid leave and the reasons why and I consider that the Respondent was correct to consider that she had failed to return from leave and therefore had taken unauthorised absence.
56. The Tribunal is satisfied that the Claimant's personal circumstances were reasonably taken into account by the Respondent and therefore the paid annual leave of 2 weeks was granted at a time when the organisation was stretched. I consider that the Claimant's personal circumstances, namely the deteriorating health of her brother and assisting her elderly mother in his care , was a matter that was reasonably taken to account by the Respondent as far as possible and there is a clear email trail in the evidence before me( as set out above) as to when annual leave was refused and then when it was granted. An email from Mr McDermott indicating that if a 3<sup>rd</sup> week unpaid could be facilitated it would be. However, though this could not be facilitated I note that the Respondent sought to try to facilitate the leave if possible.
57. The Tribunal does not accept that the Respondents were lacking in compassion or empathy as alleged. Mr Wilkins explains in his witness statement that "I was aware that Mariam's brother was unwell and had been for some time, I felt very sorry for her situation but the service was very stretched and her full request just could not be accommodated." The Respondent was then not kept fully informed whilst the Claimant was away in respect of her returning to work.
58. I am satisfied that it was made clear to the Claimant that the leave was not granted for the full duration as this was due to needs of the business and the fact that other staff members were on leave at the same time. I further accept that her personal circumstances had been taken into account by the Respondent when granting the leave.
59. The Claimant was required to be ready and available to work any allocated shift on or after 29 July 2023 and that she had failed to keep the Respondent

fully informed and therefore it was reasonable for the Respondent to treat the leave as unauthorised leave.

60. There is also clear evidence before me that communication from the Claimant to the Respondent was minimal and was not clear and nor transparent whilst she in Gambia examples include emails that were sent on the 28 July 2023 stating that she had not returned and couldn't leave Gambia as her brother was in a fragile state and that she understood that she would not be paid for further leave taken, on the 16 August 2023 she intending to return in about 2 weeks and that she would contact the Respondent as soon as she was able to leave and was back in the UK, the 25 August 2023 that she would be surely returning to the UK at the weekend, and on the 01 September that she would be within the UK within 24 hours and that she would be returning to work as soon as possible and would contact the Respondent when she arrived. Having carefully considered the correspondence that was sent by the Claimant from Gambia I consider Mr McDermott was reasonable to conclude that the communication had been lacking and that the Respondent had not been provided with clear information in respect of her return date and they were trying to manage the situation due to the Claimant's failure to return to work. Further, I accept that Mr McDermott was reasonable to conclude that policies and procedures had not been followed in respect of applying for leave such as compassionate leave.
61. I also accept that it was reasonable for the Respondent to conclude that there was potential risk to the business due to the claimant not communicating that she would not attend for her shift.
62. The Tribunal was satisfied that what the claimant stated about poor network access whilst in Gambia which was mentioned in her appeal meeting was therefore taken into consideration by Mr McDermott. The Claimant did manage to send emails to indicate her non-attendance to the investigatory meeting and further did not ask to rearrange the disciplinary meeting on the 01 September 2024 and also managed to make a WhatsApp call.
63. At no point did the claimant indicate during the appeal hearing that she was not aware of the policy in respect of annual leave. In her evidence, the Claimant explained that she was not entirely aware of this policy she did go on to explain that she was read aspects of the policy in her 121.
64. Therefore I consider it was reasonable for the Respondent to expect the Claimant who had been an employee for a considerable period of time to be aware of the relevant policies. I accept that the Respondent was reasonable to consider that it was the Claimant's responsibility to ensure her communications with the Respondent are clear. No application for sick leave or compassionate leave was made by the Claimant nor did the Respondent have an understanding of how many days would be required as the Claimant did not indicate a clear return date or keep them appropriately updated. Therefore, I consider the conclusions in the outcome of appeal letter dated the 10 October 2023 to be reasonable.

65. Further I do not find any evidence to suggest any predetermination on the part of the Respondent in the dismissal for gross misconduct. The Claimant in her oral evidence explained how she enjoyed her work and had a good relationship with her line manager. I consider that this was the respondent's genuine attempt to manage a situation and an employee that had left them short staffed and in a difficult situation due to her failure to return to work following leave and her lack of communication with the employer. Therefore the claim for unfair dismissal is not well founded and is dismissed.

### **Wrongful dismissal.**

66. The Claimant was dismissed without notice. She brings a breach of contract claim in respect of her entitlement to notice pay. The Respondent says that it was entitled to dismiss her without notice for her gross misconduct.
67. I must decide if the claimant committed an act of gross misconduct entitling it to dismiss without notice. In distinction to the claim of unfair dismissal, where the focus was on the reasonableness of management's decisions, and it is immaterial what decision I would have made about the claimant's conduct, I must now decide for myself whether the claimant was guilty of conduct serious enough to entitle the respondent to terminate the employment without notice.
68. I have set out my findings about the claimant's actions above. They are equally applicable to the question whether the claimant was guilty of conduct entitling the Respondent to dismiss without notice. The Claimant failed to return to work, it was made clear to her when the leave was granted that 2 weeks paid leave had been granted and as per email of the 11 July 2023 both the Claimant and the Respondent were aware that her brother was gravely ill. The Claimant's communication with the Respondent whilst she was in Gambia lacked clarity and transparency and was poor in all the circumstances and placed service users at potential risk. Further, she failed to return to work the end of July 2023 and her brother's sad passing occurred some weeks after this date on 21 August 2023.
69. I am satisfied that the employer was entitled to conclude that the misconduct amounted to gross serious misconduct for the reasons set out above and a fundamental breach of contract and therefore the notice pay claim is not well founded and is dismissed.

### **Holiday Pay**

70. In respect of holiday pay or unlawful deduction of wages I accept that the evidence of Miss Anne Smith that Claimant had taken more annual leave, namely that she was paid for 60 hours/ 3 weeks of holiday despite it not being authorised and she would have accrued 48.1 hours if she had worked her 20 hours contracted and therefore had been overpaid 11.9 hours of leave in the 2023/2024 annual leave year. She also explained that in practice she had not worked all her contracted hours until 04 September because she had taken unauthorized absence but that calculation also

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resulted in an overpayment of 22.42 hours a week. And therefore this part of the claim is not well founded and is also dismissed.

**Employment Judge Iman  
Dated: 26 September 2024**