



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss Clara Abdullah  
**Respondent:** OCS Group UK Ltd  
**Heard at:** Watford Employment Tribunal (by CVP)  
**On:** 29,30 April and 1 May 2025  
**Before:** Employment Judge Alliott  
Mr N Boustred  
Mr S Woodward

## Representation

**Claimant:** In person  
**Respondent:** Mr R Kight (counsel)

**JUDGMENT** having been sent to the parties on 4 June 2025 and written reasons having been requested in accordance with Rule 60 of the Employment Tribunals Rules of Procedure, the following reasons are provided:

# REASONS

## Introduction

1. The claimant was employed by the respondent on 5 June 2023 as a part-time Catering Supervisor working 17 hours per week on Saturday and Sundays. Her employment was summarily terminated on 4 August 2023, and she was paid two weeks pay in lieu of notice. By a claim form presented on 29 October 2023, following a period of early conciliation from 20 to 23 October 2023, the claimant brings complaints of direct race discrimination.

## The issues

2. The issues were recorded by Employment Judge Hindmarch in a case summary following a preliminary hearing heard on 24 June 2024. They are as follows:-

“The issues the Tribunal will decide are set out below.

1. **Direct race discrimination (Equality Act 2010 section 13)**

- 1.1 Did the Respondent do the following things:

- 1.1.1 In June 2023, a member of the Respondent’s reception security staff (White, English male) raised complaints to Leigh Ashley, Contract Manager, regarding the Claimant’s performance;



1.1.2 In around July and August 2023, the Respondent's colleagues, Sukhpreet, Sadia, Jasvir and Pandeer raised false allegations about the Claimant to Leigh Ashley and Daniel Biggs, specifically that the Claimant was not helpful, not performing and not following safe food preparation methods and encouraged them to dismiss her; [**Jasvir Pandeer is actually one person**]

1.1.3 In or around 4 August 2023, the Respondent's colleagues made up a hoax story about her putting a towel in an oven to get her fired from her job;

1.1.4 On 4 August 2023, Mr Ashley decided that the Claimant had not successfully completed her probationary period and would be dismissed; and

1.1.5 On 19 September 2023, Sean Robson, Account Manager, decided to uphold the Claimant's dismissal on appeal.

1.2 Was that less favourable treatment?

The Tribunal will decide whether the Claimant was treated worse than someone else was treated. There must be no material difference between their circumstances and the Claimant's.

If there was nobody in the same circumstances as the Claimant, the Tribunal will decide whether they were treated worse than someone else would have been treated.

1.3 If so, was it because of race?

2. **Remedy for discrimination or victimisation**

Not set out here due to our findings of fact."

## **The law**

3. Section 13 of the Equality Act 2010 provides as follows:-

**"13 Direct discrimination**

(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."

4. Section 23 of the Equality Act 2010 provides as follows:-

**"23 Comparison by reference to circumstances**

(1) On a comparison of cases for the purposes of section 1... there must be no material difference between the circumstances relating to each case."

5. Section 109 of the Equality Act 2010 provides as follow:-

**"109 Liability of employers and principals**



- (1) Anything done by a person (A) in the course of A's employment must be treated as also done by the employer.”

6. Section 136 of the Equality Act 2010 provides as follows:-

**“136 Burden of proof**

...

- (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.”

7. Once a claimant proves facts from which the tribunal could conclude, in the absence of any other explanation, that an employer has committed an act of direct discrimination, the tribunal is obliged to uphold the claim unless the employer can show that it did not discriminate.

8. Ms Kight also cited to us a few cases including:

8.1 Glasgow City Council v Zafar [1998] ICR 120 HL in support of the proposition that unreasonable conduct is not, of itself, necessarily a sufficient basis for an inference of discrimination so as to cause the burden of proof to shift.

8.2 Gould v St Johns Downshire Hill [2021] ICR 1 EAT in support of the proposition that for an alleged discriminator to act because of a protected characteristic it is necessary for it to be the reason why or a significant influence.

9. In addition, the claimant made reference to some cases in her written closing submissions.

**The evidence**

10. We had a hearing bundle of 408 pages.

11. We had written statements and heard evidence from the following:

11.1 The claimant.

11.2 Mr Leigh Ashley, Contract Manager, who dismissed the claimant.

11.3 Mr Daniel Biggs, Deputy Contract Manager, who reported to Leigh Ashley and who was the line manager of the claimant's line manager "Jyoti".

11.4 Mr Sean Robson, Business Director, who heard the claimant's appeal against dismissal.

12. We had written closing submissions from the claimant.



## The facts

13. The respondent is an outsourcing company that provides facilities management and property related services for a large portfolio of both public and private sector clients throughout the UK.
14. The respondent had a contract with West London NHS Foundation Trust to provide multi-services of window cleaning, hospital cleaning and catering.
15. The claimant is of Arab descent and black.
16. The claimant was employed to work at St Bernard's Hospital as a part-time Weekend Catering Supervisor. Her line manager was Ms Navjot Mahah, universally known as "Jyoti". Jyoti reported to Daniel Biggs who in turn reported to Leigh Ashley.
17. The claimants contract of employment contains a probationary period of three months and states that it reserves the right to terminate employment either during or at the end of that period.
18. The claimant's role was to monitor and ensure daily production of meals. She had a team of about six or seven working under her in four locations at the hospital.
19. St Bernard's Hospital is a medium secure mental health facility. There is a security receptionist at the hospital. Entrance was gained with an NHS ID card. Pending being issued with an NHS ID card, an employee would need photo ID and had to be collected from reception by another employee. The Trust policy prohibited certain items such as mobile phones and handbags being taken in, and they had to be left secured in lockers at reception. There were staff lockers for NHS Trust employees and other lockers for visitors such as the respondent's employees. It would appear that the NHS Trust lockers were larger than the visitor ones. Because the hospital was medium secure, in order to work there, the claimant would need "key induction" training as some doors within the hospital were required to be kept locked.
20. The ID card and "key induction" training were provided by the NHS Trust.
21. The claimant's first day at work was on Saturday 10 June 2023. On that day Jyoti conducted training for the claimant and showed her around the wards and kitchens and introduced her to nurses and the respondent's staff.
22. On Sunday 11 June 2023 the claimant went to work. At that stage she had not done key induction training and did not have an NHS ID card. The security receptionist that day was Mr Tony Edwards, an NHS employee. He is described as white English male.
23. On 11 June 2023 there was an incident involving the claimant and Tony Edwards. The claimant had never met him before.
24. The claimant's account is that, as she did not have a pound coin for a locker, she politely asked Tony Edwards for a locker key. She says that when she asked for a bigger locker Tony Edwards said, no, he could not give her one. We find that that was probably because the bigger lockers were for NHS staff and not visitors



such as the respondent's employees. The claimant says she then asked if she could go in, and Tony Edwards refused and asked her if she had done her key induction training. The claimant said she knew nothing about key induction training, and he explained what it was. The claimant asked for a booklet, and he gave her a procedure OSP 12 leaflet explaining the prohibited items that could not be taken into the hospital. The claimant says she handed the locker key back, requested the number for the respondent's kitchen and rang to say she would not be in as she was not allowed in.

25. By contrast, Leigh Ashley told us that Tony Edwards complained to him on Monday 12 June 2023 that the claimant had been argumentative, rude and arrogant. He put his complaint in writing subsequently and it is as follows:-

“Dear Lee,

I have to inform you of a situation yesterday (Sunday 11<sup>th</sup>).

A new member of OCS staff arrived at reception (Clara).

She stated that she only works weekends and informed me she had her key induction booked on Monday 12<sup>th</sup>.

I went through the normal questions with her and she informed me that she had NOT had a key induction for this building.

I gave her a locker key to put away her contraband items, giving her a verbal list of everything she cannot bring into the unit.

She seemed confused and became argumentative.

I tried to reason with her but she would not listen.

The kitchen had been contacted to collect her from reception.

Guilamo arrived to get her but she refused to lock away any items.

She threw the locker key under the hatch.

After her denying what to lock away I gave her a copy of OSP 12 “Restricted and prohibited items”.

She glanced it over and said she was going back to her own unit.

After she left Guilamo returned to the kitchen.

Kind regards

Tony Edwards

Security Receptionist”

26. The complaint is clearly about the claimant's behaviour rather than her performance, but, subject to that, the facts alleged in issue 1.1.1 we find proved. However, Tony Edwards was not a member of the respondent's staff. He was employed by NHS.
27. Daniel Biggs told us that Tony Edwards is a most placid and laid-back guy and



that he must have felt quite strongly about the claimant's conduct to have complained.

28. To an extent we do not have to decide what actually happened as Tony Edwards was not an employee of the respondent for which the respondent would be responsible. However, as the issue was raised when the claimant was dismissed, we consider it.
29. It is clear to us, and we find, that there was a disagreement between the two of them about whether or not the claimant could have a larger NHS locker.
30. We have assessed the claimant's demeanour during this hearing. We take into account that the hearing has been by CVP and that giving evidence can be stressful and that emotions can be raised during litigation. In addition, there was a delay in the CVP link that caused participants to talk over each other on occasions. However, giving due allowance for all these issues, we found that the claimant's demeanour on occasions was that she became loud, agitated and spoke forcefully when being cross examined. We readily understand how others could perceive the claimant as argumentative at times.
31. We find that the claimant became frustrated concerning the locker issue and about not having had "key induction" training and was loud and argumentative with Tony Edwards who was simply doing his job. Both accounts agree that the claimant rang the kitchen. Tony Edwards' account is that an employee called Guilamo came to collect the claimant. In cross examination the claimant denied that any one came to collect her. The claimant was clearly scheduled to work that day as Jasvir Pander sent a text to Jyoti at 9.53 on that day asking where the supervisor was.
32. The claimant said that when she rang the kitchen she was told that Jyoti, Daniel Biggs and Leigh Ashley did not work at the weekend. We find that having been told she could not go into the hospital the claimant left in irritation and that Guilamo probably had not come down at that time as, had he or she done so, the claimant would probably have gone in.
33. In so far as we need to, we find that Tony Edwards' complaint was not less favourable treatment. The claimant has merely pointed to a difference in their races. We find that it is highly improbable that Tony Edwards would have fabricated a complaint against the claimant on the grounds of her race within a few minutes of meeting her. We find the treatment was due to the claimant's argumentative demeanour.
34. Leigh Ashley spoke to the claimant about the complaint on 12 June 2023, but nothing further appears to have been done until he showed her the written complaint at the probation meeting on 21 July 2023.
35. The case summary recites the claimant's core complaint as follows:-

“43. The claimant alleges that a number of her colleagues were of Indian heritage and that they made up false allegations about her which resulted in her dismissal”.
36. We found the claimant's attitude towards Asian Indians was troubling. The claimant's witness statement contains the following paragraph:-



“2 This is not the first, second and third times that I’ve been working with Indians worker at work especially when you are working with a bunches of them in that organisation you will have problems, some of them are foreign workers in the food industry about 60% of them, they want the job for their Asian-Indian people and they are greedy, wicked and racist people to work with, please this is not a racist remark about them but an experience that I encounter with them while working with them, they cause my disability from my previous jobs so I know what I’m talking about, they will lay false allegation an accusation against you, gang themselves against you and fabricate the story against you in order to make unnecessary complaints about you to the managers to removed from the job, they will find a way to provoke you for you to lose your temper and to continued their complaints to the manager that I’m a very aggressive person and I have a hot temper for the manager to completely remove you from the job role and this is what they did to me in this workplace, they are full of darkness. This is what the Asian-Indian people are specialised in doing.”

37. Whilst the claimant may assert that her comments are not a racist remark, we find that her comments are highly offensive and racist. We find that the claimant clearly had longstanding antipathy towards Asian-Indian people and that this probably adversely affected her interaction with and communication with colleagues of that heritage.

38. It is correct that a number of the claimant’s colleagues raised issues and complaints about the claimant.

39. On 11 June 2023 at 9.53, Jasvir Pander texted Jyoti stating:-

“Good morning Joti, I don’t know where is supervisor today she doesn’t come at the moment.”

40. On 24 June 2023 at 9.43 Sukhpreet texted Jyoti to say:-

“Hi who is working in Jubilee today?

41. Jyoti replied

“Your supervisor.”

42. Sukhpreet replied:

“Didn’t come yet.”

43. And later on:

“She came here 10.30 and said I will do paperwork I said its time for food first then do it and the 10.50 sage said I will do paperwork again I said you have to go Jubilee so she said you want me to rid.”

44. On 2 July 2023 Jyoti texted the claimant with a complete timetable for her shift telling her where to go and what to do at different times. That was no doubt to help her structure her day.

45. On 8 July 2023 Sukhpreet sent the following message to Jyoti:-

“Hi sorry to disturb you I don’t think she can’t cooperate here with anyone she thinks she is over the world she left 10.30 from here and come back for 20 min (1.30 to 1.50) and came back 3 and just divided the food and left at 3.35 and come back at 6.40 I don’t



know where was she? I don't know how she is managing with other staff.

Little rude

You know I never did with anyone like this but she is totally unexpected”

46. On 21 July 2023 Leigh Ashley conducted what he referred to as the four week probation meeting with the claimant. (in actual fact it was about six weeks after she had begun). The probation report form contains the following:-

“Performance assessment

Ability in the role: Working ok, improve colleague engagement and more monitoring of service.

Interaction with others: To improve.”

47. It was leigh Ashley's evidence that he raised all the issues concerning complaints and the complaint from Tony Edwards at this meeting. We find that he probably did this as the outcome of the meeting was to improve communication and staff engagement.

48. Following the meeting Leigh Ashley sent the claimant a follow up email. This includes the following:-

“Do remember you are integrating into a new team, this role is relevantly [sic] new and there is to be a team approach to things, get to know the teams, engage and communicate.”

49. In that email Leigh Ashley set out the working supervisor routine, again to assist the claimant in structuring her day. The email concludes:-

“If you need any support let me know”.

50. In addition, on 21 July 2023, Leigh Ashley provided further training for the claimant over three topics, namely auditing service, portion control and staff engagement.

51. We find Leigh Ashley was supporting the claimant against the background of complaints that had been made about her conduct.

52. On 26 July 2023 Sadia Job texted Jyoti as follows:-

“About Clara A:

- Not helpful/cooperating like others.
- Don't do fruit salad.
- Don't do cold stuff.
- Didn't see her to mop.
- Denied to carry bin bags.
- As a new person if any information/job I let her know, she thinks/takes that as a command. Bcoz of this reason, nothing about work can't be shared with her.



- too slow/don't understand what to do at the time of food divide.
- Comes too late, and start washing late. But the person who divide food needs container."

53. On 31 July Jasvir Pander sent a text to Jyoti as follows:-

"I cannot work with staff members who are not doing their part of the job.

It is not in my nature to complain however I feel as if I was working as a lone worker with our new supervisor. She has come in the morning at 9.50 only cut tomatoes helped wrap salad and food.

Left all morning washing for me.

She came back at 15.25 cleaned her derby trolley & washed her derby dishes and gone again around 15.45.

...

I didn't even get a chance to take my full break.

It is too stressful working with someone who isn't doing their half of the work and expecting the other team member to do all the work for them."

54. On 1 August 2023 Jaison Suni texted Jyoti as follows:-

"I am writing to bring to your attention a concerning matter regarding an incident involving one of your employees, which had led to my decision to file a formal complaint.

On 31.7.23, I had attended Jubilee Ward in the morning to prepare food as per my usual activities. As I opened the oven I discovered a damp cloth, with water on the tray inside the oven. As you are aware, this is an oven to heat food, and not a dryer.

I enquired with the staff why was this wet cloth in the oven, I was informed this was the action of the weekend supervisor.

The behaviour displayed by this individual was not only unprofessional but also caused a significant delay in preparing food and required the assistance of the other staff as the oven needed to be completely dry to prevent an electrical fire.

....

In light of this incident, I kindly request that appropriate action be taken to address the matter and ensure that this type of misconduct does not recur in the future."

55. On 2 August 2023 Zarin texted Jyoti to say:-

"Hi Joti please don't sand weekend supervisor she is always out of kitchen I'm alone working in."

56. Daniel Biggs also referenced a verbal complaint from a chef (Vinesh Chowdhury) that the claimant was rude. Thus, we have evidence from five colleagues and Tony Edwards concerning the claimant's behaviour and demeanour.

57. We find that in July and August 2023 a number of the claimant's colleagues did raise allegations against her that she was not helpful, not performing, absenting



herself from the workplace and not following safe food preparation methods. We find that there was no express encouragement to dismiss the claimant.

58. We find that the complaints were not false. We find that they were genuine concerns raised as a result of the claimant's conduct. As such, we find that the fact alleged in issue 1.1.2 are not proved.
59. On 1 August 2023 Jaison Suni reported, as set out above, that a damp cloth had been found in an oven (actually a food heating trolley called a Burlodge Trolley). When this was raised in the meeting with the claimant on 4 August 2023 the claimant said (from the notes of the meeting):-

“Leigh Ashley – One was about a wet cloth left in a Burlodge Trolley.

Claimant - In Jubilee.

Leigh Ashley - So you know exactly where it was? Do you think it is safe to leave a wet cloth within a food area that is hot?

Claimant - It wasn't hot, I thought it would dry quicker.”

60. At the appeal hearing on 7 September 2023 with Sean Robson, the following exchange is recorded:-

“SR You washed the cloth and placed it in a Burlodge oven to dry out?

CA I washed it and put it in the oven, but it wasn't on but was still warm, washed it and put it in to dry as the top of the fridge had a lot of debris and this was kept it clean.

SR The reason this is a concern to OCS – oven for food stuff only, by law and placing damp cloth in warm environment encourages bacterial growth, it wasn't that it was missing it was when you placed it to dry that was the issue: A breach of health and safety.”

61. In oral evidence Sean Robson told us that the trolley was a sterile environment that should only have food products in it as there was a potential for cross contamination and placing a wet cloth inside broke a critical control measure.
62. The cloth and trolley were photographed, and the claimant became very insistent that it was fabricated as no water could be seen. It is true that no water is apparent in the photograph, but we had no evidence of any time gap between its discovery and the picture being taken. In any event, we find that the photo is largely irrelevant as the claimant admitted placing the damp cloth in the trolley. As such, the story was not a hoax and the facts in issue 1.1.3 are not proved.
63. The claimant worked on the weekend of 29 and 30 July 2023. On 1 August she submitted her weekend shift report.
64. On 3 August the claimant was sent an email by Daniel Briggs asking her to attend a meeting on 4 August 2023. The claimant assumed it was about her weekend report, but it was a probation review meeting although to be fair, the email inviting her did not make this plain.
65. The meeting was held on 4 August 2023. The claimant confirmed she felt supported and had received relevant training. The various complaints about the



claimant's conduct were discussed and Leigh Ashley decided to terminate the claimant's employment as he determined that she had failed her probation. As such, the fact alleged in issue 1.1.4 are proved.

66. We have taken a hypothetical comparator, namely a white colleague who had a similar record of complaints against him or her. We find that such a comparator would have been treated exactly the same and would have failed their probation. The complaints were numerous and concerned both her conduct at work and attitude. We find there was more than sufficient grounds upon which Leigh Ashley could decide that her performance was such that she failed her probation. We find that the claimant's dismissal was not less favourable treatment and was not on the grounds of her race. It was due to her poor conduct.
67. The claimant raised an appeal, albeit that it was labelled a complaint/grievance dated 11 August 2023. In it she raises for the first time an assertion that the allegations against her were racist, and that staff had ganged up on her in order to get her dismissed because of her Arab descent.
68. The claimant was sent a dismissal confirmation letter dated 16 August 2023. This states:-

“The meeting was called to discuss issues and concerns which had arisen during your probationary period in relation to your performance and conduct. Specifically:

- **Failing to engage appropriately/support with on site employees after being instructed to do so.** Initially I had a complaint within the first weeks of your employment from security reception staff indicating you had been rude and dismissive to them over site requirements they must ensure are complied with for security reasons. We met on 21 July 2023, and I highlighted this as a particular area I needed you to focus on and improve. I also emailed you with my expectations and this was signed off via training – you were visually trained on how to communicate with employees with myself, Daniel and Navjot present. Despite this, I subsequently received complaints from more staff indicating that you were not engaging with them and actually spending very little time present and supervising, failing to assist or openly and refusing to help with day to day requirements.
- **Failing to comply with the given daily schedule.** You were informed of the schedule you needed to follow to ensure compliance as part of your employment, and as I have explained, we are to follow the daily schedule in place to ensure we have the full positive effect on service delivery. I highlighted this as an important requirement again in our meeting on 21 July and stressed this must be followed. However, I noted that you continued not to follow this when reviewing your weekend reports which evidence this to be the case.
- **Contravening health and safety by putting a wet cloth into a hot trolley.** I received a complaint from a member of staff stating that on 31 July 2023 they opened the oven to commence food preparation and found a damp cloth with water on the tray inside the oven, and staff informed him that you had done this. Your action caused the delay in preparing food and required the assistance of other staff as the oven needed to be completely dry to prevent an electrical fire. When questioned, you were able to tell me exactly where you left the cloth, and you accepted you had done this, Your attitude to this when questioned gave me concerns as you became defensive, refusing to acknowledge why this was an issue of health and safety, and instead simply



commented that you thought it would dry quicker.

As a result of these concerns, I advised you that your employment with OCS was being terminated on the grounds of the unsuccessful completion of your probationary period.”

69. On 22 August 2023 the claimant was invited to an appeal hearing initially set for 31 August, but which actually took place on 7 September 2023. The claimant was accompanied by a trade union representative. Each of the seven issues identified in the claimant’s appeal was addressed including the allegation of racism.
70. On 19 September 2023 an appeal outcome letter was sent to the claimant rejecting the claimant’s appeal. As such, the facts alleged in issue 1.1.5 are proved.
71. We have taken a hypothetical comparator, namely a white colleague who had a similar record of complaints against him or her, We find that such a comparator would have been treated exactly the same and would have had their appeal rejected. We find that this was not less favourable treatment and was not on the grounds of her race. We find that this was due to the fact that the respondent’s policies on disciplinary procedures had been followed and that Mr Robson concluded that the decision to terminate the claimant’s employment was fair and just.
72. For the above reasons the claimant’s claims are dismissed.

Approved by:

Employment Judge Allott

Date: 7 August 2025

JUDGMENT SENT TO THE PARTIES ON

11 August 2025

FOR THE TRIBUNAL OFFICE