



THE EMPLOYMENT TRIBUNAL

SITTING AT: LONDON SOUTH by CVP

BEFORE: EMPLOYMENT JUDGE MORTON
Ms H Bhadaria
Mr S Khan

BETWEEN:

Ms S McKenzie

Claimant

AND

Nikki Tibbles Wild at Heart Ltd

Respondent

ON: 15-17 September 2025

Appearances:

For the Claimant: In person
For the Respondent: Ms G Nicholls, Counsel

Judgment

1. The claimant is entitled to the following net payments from the respondent:
 - a. £4425.80 in respect of unpaid wages for the period 1 to 14 December 2023 (s23 Employment Rights Act 1996 ("ERA"));
 - b. £442.58 in respect of one day's accrued but untaken holiday (s23 ERA);
 - c. £17,703.04 in respect of breach of contract in not providing her eight weeks' notice of termination of employment (Article 4 Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994).
2. The total payable by the respondent to the claimant is a net payment of £22571.42.

Written reasons provided at the request of the respondent

1. By a claim form presented on 4 April 2024 the Claimant brought a claim for unpaid wages and breach of contract against the Respondent, which the Respondent resisted. ACAS was first contacted on 12 January 2024 and the certificate was issued on 23 February 2024. It was not in dispute that the claims were brought in time.
2. The hearing took place in person, save that two observers joined the hearing remotely on the third day when the Tribunal's oral judgment was delivered.
3. At the hearing the tribunal heard evidence from the claimant herself, from her witness Rajpal Bhamra and on behalf of the respondent, from Nikki Tibbles, the respondent's chief executive.
4. The documentation was provided to us in three separate bundles, as a result of a considerable amount of last-minute disclosure. The main bundle consisted of 157 pages and page reference in this judgment are page numbers in that bundle. There were two supplementary bundles referred to below as "SB1" and "SB2".
5. The Tribunal gave oral judgment at the end of the hearing. The tribunal made an error in doing so that it immediately reconsidered when Ms Nicholls quite properly pointed it out. This is dealt with in the reasons below.
6. These reasons are provided in response to a request of the respondent that it made at the end of the hearing.

The Law

7. Breach of contract

Article 4 of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994 provides as follows:

4. Proceedings may be brought before an employment tribunal in respect of a claim of an employer for the recovery of damages or any other sum (other than a claim for damages, or for a sum due, in respect of personal injuries) if—

(a) the claim is one to which section 131(2) of the 1978 Act applies and which a court in England and Wales would under the law for the time being in force have jurisdiction to hear and determine;

(b) the claim is not one to which article 5 applies;

(c) the claim arises or is outstanding on the termination of the employment of the employee against whom it is made; and

- (d) proceedings in respect of a claim of that employee have been brought before an employment tribunal by virtue of this Order.

8. Right not to suffer unauthorised deductions.

S 13 ERA provides as follows:

- (1) An employer shall not make a deduction from wages of a worker employed by him unless—
 - (a) the deduction is required or authorised to be made by virtue of a statutory provision or a relevant provision of the worker's contract, or
 - (b) the worker has previously signified in writing his agreement or consent to the making of the deduction.
- (2) In this section "relevant provision", in relation to a worker's contract, means a provision of the contract comprised—
 - (a) in one or more written terms of the contract of which the employer has given the worker a copy on an occasion prior to the employer making the deduction in question, or
 - (b) in one or more terms of the contract (whether express or implied and, if express, whether oral or in writing) the existence and effect, or combined effect, of which in relation to the worker the employer has notified to the worker in writing on such an occasion.
- (3) Where the total amount of wages paid on any occasion by an employer to a worker employed by him is less than the total amount of the wages properly payable by him to the worker on that occasion (after deductions), the amount of the deficiency shall be treated for the purposes of this Part as a deduction made by the employer from the worker's wages on that occasion.
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- (6) For the purposes of this section an agreement or consent signified by a worker does not operate to authorise the making of a deduction on account of any conduct of the worker, or any other event occurring, before the agreement or consent was signified.

The issues for determination

- 9. The issues for determination by the Tribunal were discussed at a case management hearing on 24 March 2025 and were as follows:
 - 1. What wages were properly payable to the Claimant?
 - a. What holiday pay was properly payable to the Claimant?

b. What wages were properly payable up to the Claimant's resignation on 5 December 2023?

c. What notice pay was properly payable to the Claimant?

2. Were the wages paid to the Claimant less than the wages they should have been paid?

1. Was any deduction required or authorised by statute?

4. Was any deduction required or authorised by a written term of the contract?

5. Did the Claimant have a copy of the contract or written notice of the contract term before the deduction was made?

Findings of fact

10. The following findings are made on a balance of probabilities after hearing and reading all the witness and documentary evidence with which we were provided.

11. The Claimant was engaged by Ms Tibbles in May 2022 to act as managing director in her floristry business, Wild at Heart. Ms Tibbles had not employed anyone at that level of seniority before. An email recording her excitement at having brought the Claimant on board was at page 45.

12. This email confirmed a starting salary of £150,000 and a start date of 6 June 2022 and indicated that there would be a discussion about shares and a bonus based on any increase in profits. No other terms of employment were set out.

13. It was the claimant's case that shortly after that, within the first week of her employment, that is, by 13 June 2022, there was a meeting between her and Ms Tibbles at which she was given a hard copy contract, a purported copy of which was at page 63. This, she said, recorded the remaining terms of her contract, including a requirement on her to give eight weeks' notice of termination and the respondent to give her four weeks' notice.

14. The Tribunal found as a fact that this meeting did not, take place, or if it did, that no contract was signed at it as described by the claimant in her evidence. We decided that because we also found as facts that:

- a. On 21 June 2022, the claimant wrote to the respondent (page 43), with a completed starter form and said that she did not at that point have a contract;
- b. The respondent was at the time circulating a draft contract that it was envisaging providing to the claimant that contained some terms suitable for a senior employee such as post termination restrictions;
- c. That version of the contract was sent for approval to Ms Tibbles, but she did not ever respond to the email seeking her approval and the

contract in that form was never therefore issued to the claimant (and there was no evidence that the claimant was ever shown a copy of it). Ms Tibbles' evidence, which the Tribunal accepted, was that she was still thinking about the precise terms of this contract as regards post termination restrictions and shares and that the subject then 'fell off her radar';

- d. It was improbable that the respondent would have been circulating a draft contract as described in the previous paragraph after providing the claimant with a hard copy contract some weeks earlier;
 - e. The document at page 63 contained the wrong start date, but that date was consistent with the template at SB1 page 45, that was sent to the claimant by Gemma Clarke on 27 June 2023 (SB1 44) in the course of correspondence about engaging new recruits (which fell within the claimant's responsibilities);
 - f. The contract at page 63 did not contain an address for the claimant, which was inconsistent with the respondent's proposed contract for the claimant, but consistent with the template at page 45 of SB1;
 - g. The contract at page 63 was missing some of the terms appropriate to a senior employees, including the PTRs that appeared in the draft that was being circulated in June 2022;
15. On a balance of probabilities, it therefore seemed more likely than not that the claimant had put together the contract at page 63 towards the end of her employment, when her relationship with Ms Tibbles was breaking down, using the template at SB1 page 45 as the basis, in order to substantiate her claim for notice.
16. We therefore find as a fact that the claimant was not therefore formally engaged on the terms set out in the contract at page 63 as that document was not issued to the claimant by the respondent and not knowingly signed by Ms Tibbles. Although it bore her signature, we find as a fact that Ms Tibbles had a habit of pre-signing template documentation and it was therefore an easy matter for the claimant to append her signature to the document without her express consent. We found that Ms Tibbles did not give the document at page 63 to the claimant with the intention of it being the contract on which the claimant was engaged.
17. It is trite law nevertheless that an employment contract can come into existence even if not in written form and we found in this case that there plainly was a contract of employment in existence as it was not disputed that the claimant was providing her services in exchange for pay in an employment relationship. We return to the relevant terms of that contract as we have construed them later in these reasons.
18. The claimant was awarded a very substantial pay increase in March 2023, that took her annual salary to £200,000. At that point the respondent was anxious not to lose the claimant's services and the claimant had intimated to Ms Tibbles that she was receiving interest from head-hunters.
19. The relationship between the claimant and Ms Tibbles began to deteriorate

- fairly soon after that. The claimant was very uncomplimentary in her evidence about the way in which the business was run. The tribunal was shown a number of WhatsApp messages between the claimant and one of her reports, the Head of Events, Sarah Martin (pages 75-94), in which she made various derogatory comments about Ms Tibbles. The respondent relies on these as acts of gross misconduct by the claimant, that extinguished any right to notice pay. We return to that point later in these reasons.
20. In her evidence Ms Tibbles was also uncomplimentary about the way in which the claimant was carrying out her duties. She made a number of unparticularised assertions about the claimant's performance at paragraph 5 of her witness statement. The Tribunal did not hear evidence about these matters and makes no findings on them, save as to say that some of the assertions made are difficult to reconcile with the substantial pay award made in March 2023. The evidence we heard suggested that Ms Tibbles was preoccupied (for example with a large project on which she was engaged at Stoke Park) and relatively hands off in the way in which she ran the business, leaving the claimant to get on with her job with little, if any, oversight.
21. There was a dispute of fact about how it was that the claimant's employment came to an end. The claimant said that she decided to resign on 5 December 2023 after dealing with several members of staff in tears, as she submitted, as a result of Ms Tibbles' behaviour towards them. Ms Tibbles' evidence was that there had been a verbal disagreement on 1 December 2023 at which termination of the claimant's employment had been discussed as a result of her dissatisfaction with the claimant's performance, but the claimant had asked for more time to improve things. She said that she had agreed to a follow up meeting on 5 December 2023. The Tribunal was not satisfied that the respondent had shown that a discussion had taken place on 1 December as described by Ms Tibbles and there was no written evidence corroborating Ms Tibbles' account, but as nothing in the case turns on whether there was such a meeting we do not need to address it any further in these reasons.
22. It is common ground that the two women met on 5 December 2023 at an external venue. It is also common ground that at some point during that meeting the claimant proffered her resignation. There was a dispute about the precise order of events but the Tribunal does not think that anything in this case turns on that.
23. In her resignation email the claimant said as follows:

Dear Nikki

It is with deep regret that I am formally providing notice of my resignation with Wild At Heart Ltd. As per my contractual requirements, I am providing 2 months' notice and therefore, my last day with the business will be Tuesday 5 February, 2024.

We can discuss what you would like me to prioritise and action during my time left with the business.

I believe there is great opportunity with your business but there is a lot to change in order to build it on robust processes and operational

behaviours. I do hope you can find someone that can help you deliver this the way you would like them to.

24. Ms Tibbles responded as follows:

Thank you for your email. I am not aware of any contractual requirement, my understanding is you only need to give one weeks - notice, which I am happy to accept as immediate. You are no longer required to do any work for Wild at Heart on receipt of your email and therefore all emails and calls will be transferred to me. I'll ask Gemma to arrange a bike to collect your laptop phone and work card tomorrow morning.

25. The claimant's access to work systems was removed shortly after this. The claimant then wiped her devices and returned them to the respondent.

26. On 6 December the claimant wrote to NT enclosing scans of the offer email at page 45 and the contract at page 63, asserting that this evidenced her right to give 8 weeks' notice of termination. Given the uncertainty that this created the respondent treated the claimant's employment as ongoing whilst it considered the position.

27. The respondent then took steps to restore the claimant's devices, discovered the WhatsApp messages at pages 75 to 94 and summoned the claimant to a telephone meeting with NT on 14 December at which her executive assistant, Gemma Clarke, took the notes at page 71. At this meeting Ms Tibbles dismissed the claimant with immediate effect on the basis of the WhatsApp messages found on the claimant's phone, that Ms Tibbles found upsetting and considered derogatory.

28. A letter of dismissal followed on 19 December, giving further details of Ms Tibbles' reliance on the messages as constituting gross misconduct that justified immediate dismissal. The claimant sought to appeal the decision, but it appears that despite referring to a right of appeal in the letter, Ms Tibbles did not make arrangements for an appeal to take place.

29. The respondent then failed to pay to the claimant the sums she was due for salary up to 14 December 2023 and one day of holiday pay, which it attributes to difficulty in reconciling the claimant's expenses. It then purported to make those payments in August 2025, but the claimant refused the cheque, concerned, amongst other things, that by accepting a payment at that point she might jeopardise her position at this hearing. The Tribunal considered that this was a reasonable stance for the claimant to take at that time.

30. Following her dismissal the claimant was subjected to what the tribunal considered to be a course of unpleasant and intimidating conduct by a COO engaged in the business called Jason Dooris. This included a report to Wandsworth Police about the contract at page 63 and a misconceived application to the County Court that was dismissed as disclosing no legally

recognisable claim. The Tribunal acknowledged that by creating the contract at page 63, which was at best ill-advised and a gross error of judgment on her part, the claimant was to an extent the author of her own misfortune in being subjected to this scrutiny after the termination of her contract. However, we considered the tactics deployed to have been very heavy handed and disproportionate in the circumstances.

Conclusions

31. Whatever the circumstances of her dismissal, the claimant was entitled to salary at a rate of £200,000 per annum to 14 December 2023, it having been accepted by the Respondent that the claimant remained employed until that date and there being no dispute as to the rate of salary applicable to her. She was also entitled to be paid for one day's accrued but untaken holiday. Liability for these sums was thus not in dispute and we did not accept the respondent's submission that we should not give judgment for this amount when an attempt had been made in August 2025 to pay it to the claimant. Her reasons for refusing a payment made in that manner at that time were cogent and she is entitled to a judgment for these sums that she can enforce if necessary.
32. Was the Claimant entitled to notice of termination of her employment and if so, how much? The Respondent says that it was entitled to dismiss the claimant without notice because of her conduct in sending the WhatsApp messages referred to above. However, the Respondent has also based its case on there having been no written contract between it and the claimant.
33. The Tribunal has found as a fact that no written contract was in fact issued to the claimant, although there was a draft in circulation that was awaiting approval from Ms Tibbles. The Tribunal also found that this draft was not shown to the claimant herself. The consequence of this is that the respondent cannot point to any contractual provision or disciplinary process that would have informed the claimant what standards were expected of her and what kind of conduct on her part could be expected to lead to immediate dismissal. If an employer wishes to be able to dismiss without notice then it must make clear in what circumstances it will do so, as otherwise the employee will remain contractually entitled to be given notice that the contract is to be brought to an end. We find that the respondent did not do this in this case and it has therefore shown no contractual basis for its withholding of notice pay.
34. Turning to the question of the amount of notice to which the claimant was entitled, given the lack of a paper contract the Tribunal is tasked with construing the terms of the contract from the surrounding circumstances, noting that the claimant was a senior employee who would have been entitled to a longer period of notice than the statutory minimum. It is clear from the facts as we have found them that the Respondent intended to issue the claimant with a contract that set out the notice requirements, but as a result of this, as Ms Tibbles put it, having 'fallen off her radar', this never happened. But the draft that was circulated provides clear evidence here of the respondent's intention - if the claimant had resigned, she would be required to

- give 8 weeks' notice and if she were dismissed, she would be entitled to receive 8 weeks' notice. Had a written contract been issued there is strong evidence that these would have been the terms of it and we therefore regard the claimant as entitled to eight weeks' notice. The Tribunal originally made an error in this respect in its oral reasons and found that the draft being circulated only gave the claimant an entitlement to receive 4 weeks' notice. Quite properly Ms Nicholls pointed out that this was erroneous and the Tribunal immediately reconsidered that aspect of its oral decision.
35. What happened in this case is that during the period of the notice the claimant wanted to give, the respondent reached the decision to terminate the claimant's contract. As we have concluded that she was entitled to notice of that termination and there was no proper basis for failing to give notice, we conclude that the respondent should have given the claimant eight weeks' notice (or payment in lieu) and in not doing so it breached the terms of the contract to which she was working, albeit that that contract had not yet been written down. We conclude that the claimant is therefore entitled to eight weeks' notice pay for the period from 14 December 2023 to 11 January 2024.
36. In case its conclusions about the period of notice to which the claimant was entitled were wrong, the Tribunal also considered whether the conduct on which the respondent relied to argue that the claimant had committed gross misconduct did in fact amount to a breach of the implied term and thus a repudiatory breach of the contract. In our judgment the conduct in question fell short of that threshold and whilst reprehensible in a senior manager, did not reach the required level of seriousness to justify immediate dismissal. We concluded this with some hesitation, but after deliberation were not satisfied that the conduct in question indicated that the claimant no longer intended to be bound by the terms of the contract. The evidence suggested that she was letting off steam in a stressful environment, albeit that it was inappropriate to do so to a member of staff who reported to her.
37. For completeness we would also observe that whilst it was clearly the respondent's view that the claimant had acted wrongly in creating the contract at page 63 and that was the basis of its report to Wandsworth Police, the respondent did not argue at any point, including in Ms Nicholls' submissions, that the claimant's conduct in producing the contract at page 63 amounted to gross misconduct that would have disentitled her to notice pay.
38. In light of the findings above we conclude that the claimant is entitled to the following net sums based on a gross annual salary of £200,000:
- a. £4425.80 net (£7692.30 gross) in respect of unpaid wages for the period 1 to 14 December 2023;
 - b. £442.58 (£769.23 gross) in respect of one day's accrued but untaken holiday;
 - c. £17,703.04 (£30,769.20 gross) in respect of breach of contract in not providing her eight weeks' notice of termination of employment.

Employment Judge Morton

Date: 15 October 2025

Judgment sent to the parties and entered in the Register on: 30 October 2025

O.Miranda

For the Tribunal Office

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For the Respondent: Ms G Nicholls, Counsel

Judgment

1. The claimant is entitled to the following net payments from the respondent:
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2. The total payable by the respondent to the claimant is a net payment of £22571.42.

Written reasons provided at the request of the respondent

1. By a claim form presented on 4 April 2024 the Claimant brought a claim for unpaid wages and breach of contract against the Respondent, which the Respondent resisted. ACAS was first contacted on 12 January 2024 and the certificate was issued on 23 February 2024. It was not in dispute that the claims were brought in time.
2. The hearing took place in person, save that two observers joined the hearing remotely on the third day when the Tribunal's oral judgment was delivered.
3. At the hearing the tribunal heard evidence from the claimant herself, from her witness Rajpal Bhamra and on behalf of the respondent, from Nikki Tibbles, the respondent's chief executive.
4. The documentation was provided to us in three separate bundles, as a result of a considerable amount of last-minute disclosure. The main bundle consisted of 157 pages and page reference in this judgment are page numbers in that bundle. There were two supplementary bundles referred to below as "SB1" and "SB2".
5. The Tribunal gave oral judgment at the end of the hearing. The tribunal made an error in doing so that it immediately reconsidered when Ms Nicholls quite properly pointed it out. This is dealt with in the reasons below.
6. These reasons are provided in response to a request of the respondent that it made at the end of the hearing.

The Law

7. Breach of contract

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(a) the claim is one to which section 131(2) of the 1978 Act applies and which a court in England and Wales would under the law for the time being in force have jurisdiction to hear and determine;

(b) the claim is not one to which article 5 applies;

(c) the claim arises or is outstanding on the termination of the employment of the employee against whom it is made; and

- (d) proceedings in respect of a claim of that employee have been brought before an employment tribunal by virtue of this Order.

8. Right not to suffer unauthorised deductions.

S 13 ERA provides as follows:

- (1) An employer shall not make a deduction from wages of a worker employed by him unless—
 - (a) the deduction is required or authorised to be made by virtue of a statutory provision or a relevant provision of the worker's contract, or
 - (b) the worker has previously signified in writing his agreement or consent to the making of the deduction.
 - (2) In this section "relevant provision", in relation to a worker's contract, means a provision of the contract comprised—
 - (a) in one or more written terms of the contract of which the employer has given the worker a copy on an occasion prior to the employer making the deduction in question, or
 - (b) in one or more terms of the contract (whether express or implied and, if express, whether oral or in writing) the existence and effect, or combined effect, of which in relation to the worker the employer has notified to the worker in writing on such an occasion.
 - (3) Where the total amount of wages paid on any occasion by an employer to a worker employed by him is less than the total amount of the wages properly payable by him to the worker on that occasion (after deductions), the amount of the deficiency shall be treated for the purposes of this Part as a deduction made by the employer from the worker's wages on that occasion.
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- (6) For the purposes of this section an agreement or consent signified by a worker does not operate to authorise the making of a deduction on account of any conduct of the worker, or any other event occurring, before the agreement or consent was signified.

The issues for determination

- 9. The issues for determination by the Tribunal were discussed at a case management hearing on 24 March 2025 and were as follows:
 - 1. What wages were properly payable to the Claimant?
 - a. What holiday pay was properly payable to the Claimant?

b. What wages were properly payable up to the Claimant's resignation on 5 December 2023?

c. What notice pay was properly payable to the Claimant?

2. Were the wages paid to the Claimant less than the wages they should have been paid?

1. Was any deduction required or authorised by statute?

4. Was any deduction required or authorised by a written term of the contract?

5. Did the Claimant have a copy of the contract or written notice of the contract term before the deduction was made?

Findings of fact

10. The following findings are made on a balance of probabilities after hearing and reading all the witness and documentary evidence with which we were provided.

11. The Claimant was engaged by Ms Tibbles in May 2022 to act as managing director in her floristry business, Wild at Heart. Ms Tibbles had not employed anyone at that level of seniority before. An email recording her excitement at having brought the Claimant on board was at page 45.

12. This email confirmed a starting salary of £150,000 and a start date of 6 June 2022 and indicated that there would be a discussion about shares and a bonus based on any increase in profits. No other terms of employment were set out.

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14. The Tribunal found as a fact that this meeting did not, take place, or if it did, that no contract was signed at it as described by the claimant in her evidence. We decided that because we also found as facts that:

- a. On 21 June 2022, the claimant wrote to the respondent (page 43), with a completed starter form and said that she did not at that point have a contract;
- b. The respondent was at the time circulating a draft contract that it was envisaging providing to the claimant that contained some terms suitable for a senior employee such as post termination restrictions;
- c. That version of the contract was sent for approval to Ms Tibbles, but she did not ever respond to the email seeking her approval and the

contract in that form was never therefore issued to the claimant (and there was no evidence that the claimant was ever shown a copy of it). Ms Tibbles' evidence, which the Tribunal accepted, was that she was still thinking about the precise terms of this contract as regards post termination restrictions and shares and that the subject then 'fell off her radar';

- d. It was improbable that the respondent would have been circulating a draft contract as described in the previous paragraph after providing the claimant with a hard copy contract some weeks earlier;
 - e. The document at page 63 contained the wrong start date, but that date was consistent with the template at SB1 page 45, that was sent to the claimant by Gemma Clarke on 27 June 2023 (SB1 44) in the course of correspondence about engaging new recruits (which fell within the claimant's responsibilities);
 - f. The contract at page 63 did not contain an address for the claimant, which was inconsistent with the respondent's proposed contract for the claimant, but consistent with the template at page 45 of SB1;
 - g. The contract at page 63 was missing some of the terms appropriate to a senior employees, including the PTRs that appeared in the draft that was being circulated in June 2022;
15. On a balance of probabilities, it therefore seemed more likely than not that the claimant had put together the contract at page 63 towards the end of her employment, when her relationship with Ms Tibbles was breaking down, using the template at SB1 page 45 as the basis, in order to substantiate her claim for notice.
16. We therefore find as a fact that the claimant was not therefore formally engaged on the terms set out in the contract at page 63 as that document was not issued to the claimant by the respondent and not knowingly signed by Ms Tibbles. Although it bore her signature, we find as a fact that Ms Tibbles had a habit of pre-signing template documentation and it was therefore an easy matter for the claimant to append her signature to the document without her express consent. We found that Ms Tibbles did not give the document at page 63 to the claimant with the intention of it being the contract on which the claimant was engaged.
17. It is trite law nevertheless that an employment contract can come into existence even if not in written form and we found in this case that there plainly was a contract of employment in existence as it was not disputed that the claimant was providing her services in exchange for pay in an employment relationship. We return to the relevant terms of that contract as we have construed them later in these reasons.
18. The claimant was awarded a very substantial pay increase in March 2023, that took her annual salary to £200,000. At that point the respondent was anxious not to lose the claimant's services and the claimant had intimated to Ms Tibbles that she was receiving interest from head-hunters.
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- fairly soon after that. The claimant was very uncomplimentary in her evidence about the way in which the business was run. The tribunal was shown a number of WhatsApp messages between the claimant and one of her reports, the Head of Events, Sarah Martin (pages 75-94), in which she made various derogatory comments about Ms Tibbles. The respondent relies on these as acts of gross misconduct by the claimant, that extinguished any right to notice pay. We return to that point later in these reasons.
20. In her evidence Ms Tibbles was also uncomplimentary about the way in which the claimant was carrying out her duties. She made a number of unparticularised assertions about the claimant's performance at paragraph 5 of her witness statement. The Tribunal did not hear evidence about these matters and makes no findings on them, save as to say that some of the assertions made are difficult to reconcile with the substantial pay award made in March 2023. The evidence we heard suggested that Ms Tibbles was preoccupied (for example with a large project on which she was engaged at Stoke Park) and relatively hands off in the way in which she ran the business, leaving the claimant to get on with her job with little, if any, oversight.
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22. It is common ground that the two women met on 5 December 2023 at an external venue. It is also common ground that at some point during that meeting the claimant proffered her resignation. There was a dispute about the precise order of events but the Tribunal does not think that anything in this case turns on that.
23. In her resignation email the claimant said as follows:

Dear Nikki

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26. On 6 December the claimant wrote to NT enclosing scans of the offer email at page 45 and the contract at page 63, asserting that this evidenced her right to give 8 weeks' notice of termination. Given the uncertainty that this created the respondent treated the claimant's employment as ongoing whilst it considered the position.

27. The respondent then took steps to restore the claimant's devices, discovered the WhatsApp messages at pages 75 to 94 and summoned the claimant to a telephone meeting with NT on 14 December at which her executive assistant, Gemma Clarke, took the notes at page 71. At this meeting Ms Tibbles dismissed the claimant with immediate effect on the basis of the WhatsApp messages found on the claimant's phone, that Ms Tibbles found upsetting and considered derogatory.

28. A letter of dismissal followed on 19 December, giving further details of Ms Tibbles' reliance on the messages as constituting gross misconduct that justified immediate dismissal. The claimant sought to appeal the decision, but it appears that despite referring to a right of appeal in the letter, Ms Tibbles did not make arrangements for an appeal to take place.

29. The respondent then failed to pay to the claimant the sums she was due for salary up to 14 December 2023 and one day of holiday pay, which it attributes to difficulty in reconciling the claimant's expenses. It then purported to make those payments in August 2025, but the claimant refused the cheque, concerned, amongst other things, that by accepting a payment at that point she might jeopardise her position at this hearing. The Tribunal considered that this was a reasonable stance for the claimant to take at that time.

30. Following her dismissal the claimant was subjected to what the tribunal considered to be a course of unpleasant and intimidating conduct by a COO engaged in the business called Jason Dooris. This included a report to Wandsworth Police about the contract at page 63 and a misconceived application to the County Court that was dismissed as disclosing no legally

recognisable claim. The Tribunal acknowledged that by creating the contract at page 63, which was at best ill-advised and a gross error of judgment on her part, the claimant was to an extent the author of her own misfortune in being subjected to this scrutiny after the termination of her contract. However, we considered the tactics deployed to have been very heavy handed and disproportionate in the circumstances.

Conclusions

31. Whatever the circumstances of her dismissal, the claimant was entitled to salary at a rate of £200,000 per annum to 14 December 2023, it having been accepted by the Respondent that the claimant remained employed until that date and there being no dispute as to the rate of salary applicable to her. She was also entitled to be paid for one day's accrued but untaken holiday. Liability for these sums was thus not in dispute and we did not accept the respondent's submission that we should not give judgment for this amount when an attempt had been made in August 2025 to pay it to the claimant. Her reasons for refusing a payment made in that manner at that time were cogent and she is entitled to a judgment for these sums that she can enforce if necessary.
32. Was the Claimant entitled to notice of termination of her employment and if so, how much? The Respondent says that it was entitled to dismiss the claimant without notice because of her conduct in sending the WhatsApp messages referred to above. However, the Respondent has also based its case on there having been no written contract between it and the claimant.
33. The Tribunal has found as a fact that no written contract was in fact issued to the claimant, although there was a draft in circulation that was awaiting approval from Ms Tibbles. The Tribunal also found that this draft was not shown to the claimant herself. The consequence of this is that the respondent cannot point to any contractual provision or disciplinary process that would have informed the claimant what standards were expected of her and what kind of conduct on her part could be expected to lead to immediate dismissal. If an employer wishes to be able to dismiss without notice then it must make clear in what circumstances it will do so, as otherwise the employee will remain contractually entitled to be given notice that the contract is to be brought to an end. We find that the respondent did not do this in this case and it has therefore shown no contractual basis for its withholding of notice pay.
34. Turning to the question of the amount of notice to which the claimant was entitled, given the lack of a paper contract the Tribunal is tasked with construing the terms of the contract from the surrounding circumstances, noting that the claimant was a senior employee who would have been entitled to a longer period of notice than the statutory minimum. It is clear from the facts as we have found them that the Respondent intended to issue the claimant with a contract that set out the notice requirements, but as a result of this, as Ms Tibbles put it, having 'fallen off her radar', this never happened. But the draft that was circulated provides clear evidence here of the respondent's intention - if the claimant had resigned, she would be required to

- give 8 weeks' notice and if she were dismissed, she would be entitled to receive 8 weeks' notice. Had a written contract been issued there is strong evidence that these would have been the terms of it and we therefore regard the claimant as entitled to eight weeks' notice. The Tribunal originally made an error in this respect in its oral reasons and found that the draft being circulated only gave the claimant an entitlement to receive 4 weeks' notice. Quite properly Ms Nicholls pointed out that this was erroneous and the Tribunal immediately reconsidered that aspect of its oral decision.
35. What happened in this case is that during the period of the notice the claimant wanted to give, the respondent reached the decision to terminate the claimant's contract. As we have concluded that she was entitled to notice of that termination and there was no proper basis for failing to give notice, we conclude that the respondent should have given the claimant eight weeks' notice (or payment in lieu) and in not doing so it breached the terms of the contract to which she was working, albeit that that contract had not yet been written down. We conclude that the claimant is therefore entitled to eight weeks' notice pay for the period from 14 December 2023 to 11 January 2024.
36. In case its conclusions about the period of notice to which the claimant was entitled were wrong, the Tribunal also considered whether the conduct on which the respondent relied to argue that the claimant had committed gross misconduct did in fact amount to a breach of the implied term and thus a repudiatory breach of the contract. In our judgment the conduct in question fell short of that threshold and whilst reprehensible in a senior manager, did not reach the required level of seriousness to justify immediate dismissal. We concluded this with some hesitation, but after deliberation were not satisfied that the conduct in question indicated that the claimant no longer intended to be bound by the terms of the contract. The evidence suggested that she was letting off steam in a stressful environment, albeit that it was inappropriate to do so to a member of staff who reported to her.
37. For completeness we would also observe that whilst it was clearly the respondent's view that the claimant had acted wrongly in creating the contract at page 63 and that was the basis of its report to Wandsworth Police, the respondent did not argue at any point, including in Ms Nicholls' submissions, that the claimant's conduct in producing the contract at page 63 amounted to gross misconduct that would have disentitled her to notice pay.
38. In light of the findings above we conclude that the claimant is entitled to the following net sums based on a gross annual salary of £200,000:
- a. £4425.80 net (£7692.30 gross) in respect of unpaid wages for the period 1 to 14 December 2023;
 - b. £442.58 (£769.23 gross) in respect of one day's accrued but untaken holiday;
 - c. £17,703.04 (£30,769.20 gross) in respect of breach of contract in not providing her eight weeks' notice of termination of employment.

Employment Judge Morton

Date: 15 October 2025

Judgment sent to the parties and entered in the Register on: 30 October 2025

O.Miranda

For the Tribunal Office

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THE EMPLOYMENT TRIBUNAL

SITTING AT: LONDON SOUTH by CVP

BEFORE: EMPLOYMENT JUDGE MORTON
Ms H Bhadaria
Mr S Khan

BETWEEN:

Ms S McKenzie

Claimant

AND

Nikki Tibbles Wild at Heart Ltd

Respondent

ON: 15-17 September 2025

Appearances:

For the Claimant: In person
For the Respondent: Ms G Nicholls, Counsel

Judgment

1. The claimant is entitled to the following net payments from the respondent:
 - a. £4425.80 in respect of unpaid wages for the period 1 to 14 December 2023 (s23 Employment Rights Act 1996 ("ERA"));
 - b. £442.58 in respect of one day's accrued but untaken holiday (s23 ERA);
 - c. £17,703.04 in respect of breach of contract in not providing her eight weeks' notice of termination of employment (Article 4 Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994).
2. The total payable by the respondent to the claimant is a net payment of £22571.42.

Written reasons provided at the request of the respondent

1. By a claim form presented on 4 April 2024 the Claimant brought a claim for unpaid wages and breach of contract against the Respondent, which the Respondent resisted. ACAS was first contacted on 12 January 2024 and the certificate was issued on 23 February 2024. It was not in dispute that the claims were brought in time.
2. The hearing took place in person, save that two observers joined the hearing remotely on the third day when the Tribunal's oral judgment was delivered.
3. At the hearing the tribunal heard evidence from the claimant herself, from her witness Rajpal Bhamra and on behalf of the respondent, from Nikki Tibbles, the respondent's chief executive.
4. The documentation was provided to us in three separate bundles, as a result of a considerable amount of last-minute disclosure. The main bundle consisted of 157 pages and page reference in this judgment are page numbers in that bundle. There were two supplementary bundles referred to below as "SB1" and "SB2".
5. The Tribunal gave oral judgment at the end of the hearing. The tribunal made an error in doing so that it immediately reconsidered when Ms Nicholls quite properly pointed it out. This is dealt with in the reasons below.
6. These reasons are provided in response to a request of the respondent that it made at the end of the hearing.

The Law

7. Breach of contract

Article 4 of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994 provides as follows:

4. Proceedings may be brought before an employment tribunal in respect of a claim of an employer for the recovery of damages or any other sum (other than a claim for damages, or for a sum due, in respect of personal injuries) if—

(a) the claim is one to which section 131(2) of the 1978 Act applies and which a court in England and Wales would under the law for the time being in force have jurisdiction to hear and determine;

(b) the claim is not one to which article 5 applies;

(c) the claim arises or is outstanding on the termination of the employment of the employee against whom it is made; and

- (d) proceedings in respect of a claim of that employee have been brought before an employment tribunal by virtue of this Order.

8. Right not to suffer unauthorised deductions.

S 13 ERA provides as follows:

- (1) An employer shall not make a deduction from wages of a worker employed by him unless—
 - (a) the deduction is required or authorised to be made by virtue of a statutory provision or a relevant provision of the worker's contract, or
 - (b) the worker has previously signified in writing his agreement or consent to the making of the deduction.
- (2) In this section "relevant provision", in relation to a worker's contract, means a provision of the contract comprised—
 - (a) in one or more written terms of the contract of which the employer has given the worker a copy on an occasion prior to the employer making the deduction in question, or
 - (b) in one or more terms of the contract (whether express or implied and, if express, whether oral or in writing) the existence and effect, or combined effect, of which in relation to the worker the employer has notified to the worker in writing on such an occasion.
- (3) Where the total amount of wages paid on any occasion by an employer to a worker employed by him is less than the total amount of the wages properly payable by him to the worker on that occasion (after deductions), the amount of the deficiency shall be treated for the purposes of this Part as a deduction made by the employer from the worker's wages on that occasion.
-
- (6) For the purposes of this section an agreement or consent signified by a worker does not operate to authorise the making of a deduction on account of any conduct of the worker, or any other event occurring, before the agreement or consent was signified.

The issues for determination

- 9. The issues for determination by the Tribunal were discussed at a case management hearing on 24 March 2025 and were as follows:
 - 1. What wages were properly payable to the Claimant?
 - a. What holiday pay was properly payable to the Claimant?

b. What wages were properly payable up to the Claimant's resignation on 5 December 2023?

c. What notice pay was properly payable to the Claimant?

2. Were the wages paid to the Claimant less than the wages they should have been paid?

1. Was any deduction required or authorised by statute?

4. Was any deduction required or authorised by a written term of the contract?

5. Did the Claimant have a copy of the contract or written notice of the contract term before the deduction was made?

Findings of fact

10. The following findings are made on a balance of probabilities after hearing and reading all the witness and documentary evidence with which we were provided.

11. The Claimant was engaged by Ms Tibbles in May 2022 to act as managing director in her floristry business, Wild at Heart. Ms Tibbles had not employed anyone at that level of seniority before. An email recording her excitement at having brought the Claimant on board was at page 45.

12. This email confirmed a starting salary of £150,000 and a start date of 6 June 2022 and indicated that there would be a discussion about shares and a bonus based on any increase in profits. No other terms of employment were set out.

13. It was the claimant's case that shortly after that, within the first week of her employment, that is, by 13 June 2022, there was a meeting between her and Ms Tibbles at which she was given a hard copy contract, a purported copy of which was at page 63. This, she said, recorded the remaining terms of her contract, including a requirement on her to give eight weeks' notice of termination and the respondent to give her four weeks' notice.

14. The Tribunal found as a fact that this meeting did not, take place, or if it did, that no contract was signed at it as described by the claimant in her evidence. We decided that because we also found as facts that:

- a. On 21 June 2022, the claimant wrote to the respondent (page 43), with a completed starter form and said that she did not at that point have a contract;
- b. The respondent was at the time circulating a draft contract that it was envisaging providing to the claimant that contained some terms suitable for a senior employee such as post termination restrictions;
- c. That version of the contract was sent for approval to Ms Tibbles, but she did not ever respond to the email seeking her approval and the

contract in that form was never therefore issued to the claimant (and there was no evidence that the claimant was ever shown a copy of it). Ms Tibbles' evidence, which the Tribunal accepted, was that she was still thinking about the precise terms of this contract as regards post termination restrictions and shares and that the subject then 'fell off her radar';

- d. It was improbable that the respondent would have been circulating a draft contract as described in the previous paragraph after providing the claimant with a hard copy contract some weeks earlier;
 - e. The document at page 63 contained the wrong start date, but that date was consistent with the template at SB1 page 45, that was sent to the claimant by Gemma Clarke on 27 June 2023 (SB1 44) in the course of correspondence about engaging new recruits (which fell within the claimant's responsibilities);
 - f. The contract at page 63 did not contain an address for the claimant, which was inconsistent with the respondent's proposed contract for the claimant, but consistent with the template at page 45 of SB1;
 - g. The contract at page 63 was missing some of the terms appropriate to a senior employees, including the PTRs that appeared in the draft that was being circulated in June 2022;
15. On a balance of probabilities, it therefore seemed more likely than not that the claimant had put together the contract at page 63 towards the end of her employment, when her relationship with Ms Tibbles was breaking down, using the template at SB1 page 45 as the basis, in order to substantiate her claim for notice.
16. We therefore find as a fact that the claimant was not therefore formally engaged on the terms set out in the contract at page 63 as that document was not issued to the claimant by the respondent and not knowingly signed by Ms Tibbles. Although it bore her signature, we find as a fact that Ms Tibbles had a habit of pre-signing template documentation and it was therefore an easy matter for the claimant to append her signature to the document without her express consent. We found that Ms Tibbles did not give the document at page 63 to the claimant with the intention of it being the contract on which the claimant was engaged.
17. It is trite law nevertheless that an employment contract can come into existence even if not in written form and we found in this case that there plainly was a contract of employment in existence as it was not disputed that the claimant was providing her services in exchange for pay in an employment relationship. We return to the relevant terms of that contract as we have construed them later in these reasons.
18. The claimant was awarded a very substantial pay increase in March 2023, that took her annual salary to £200,000. At that point the respondent was anxious not to lose the claimant's services and the claimant had intimated to Ms Tibbles that she was receiving interest from head-hunters.
19. The relationship between the claimant and Ms Tibbles began to deteriorate

- fairly soon after that. The claimant was very uncomplimentary in her evidence about the way in which the business was run. The tribunal was shown a number of WhatsApp messages between the claimant and one of her reports, the Head of Events, Sarah Martin (pages 75-94), in which she made various derogatory comments about Ms Tibbles. The respondent relies on these as acts of gross misconduct by the claimant, that extinguished any right to notice pay. We return to that point later in these reasons.
20. In her evidence Ms Tibbles was also uncomplimentary about the way in which the claimant was carrying out her duties. She made a number of unparticularised assertions about the claimant's performance at paragraph 5 of her witness statement. The Tribunal did not hear evidence about these matters and makes no findings on them, save as to say that some of the assertions made are difficult to reconcile with the substantial pay award made in March 2023. The evidence we heard suggested that Ms Tibbles was preoccupied (for example with a large project on which she was engaged at Stoke Park) and relatively hands off in the way in which she ran the business, leaving the claimant to get on with her job with little, if any, oversight.
21. There was a dispute of fact about how it was that the claimant's employment came to an end. The claimant said that she decided to resign on 5 December 2023 after dealing with several members of staff in tears, as she submitted, as a result of Ms Tibbles' behaviour towards them. Ms Tibbles' evidence was that there had been a verbal disagreement on 1 December 2023 at which termination of the claimant's employment had been discussed as a result of her dissatisfaction with the claimant's performance, but the claimant had asked for more time to improve things. She said that she had agreed to a follow up meeting on 5 December 2023. The Tribunal was not satisfied that the respondent had shown that a discussion had taken place on 1 December as described by Ms Tibbles and there was no written evidence corroborating Ms Tibbles' account, but as nothing in the case turns on whether there was such a meeting we do not need to address it any further in these reasons.
22. It is common ground that the two women met on 5 December 2023 at an external venue. It is also common ground that at some point during that meeting the claimant proffered her resignation. There was a dispute about the precise order of events but the Tribunal does not think that anything in this case turns on that.
23. In her resignation email the claimant said as follows:

Dear Nikki

It is with deep regret that I am formally providing notice of my resignation with Wild At Heart Ltd. As per my contractual requirements, I am providing 2 months' notice and therefore, my last day with the business will be Tuesday 5 February, 2024.

We can discuss what you would like me to prioritise and action during my time left with the business.

I believe there is great opportunity with your business but there is a lot to change in order to build it on robust processes and operational

behaviours. I do hope you can find someone that can help you deliver this the way you would like them to.

24. Ms Tibbles responded as follows:

Thank you for your email. I am not aware of any contractual requirement, my understanding is you only need to give one weeks - notice, which I am happy to accept as immediate. You are no longer required to do any work for Wild at Heart on receipt of your email and therefore all emails and calls will be transferred to me. I'll ask Gemma to arrange a bike to collect your laptop phone and work card tomorrow morning.

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Conclusions

31. Whatever the circumstances of her dismissal, the claimant was entitled to salary at a rate of £200,000 per annum to 14 December 2023, it having been accepted by the Respondent that the claimant remained employed until that date and there being no dispute as to the rate of salary applicable to her. She was also entitled to be paid for one day's accrued but untaken holiday. Liability for these sums was thus not in dispute and we did not accept the respondent's submission that we should not give judgment for this amount when an attempt had been made in August 2025 to pay it to the claimant. Her reasons for refusing a payment made in that manner at that time were cogent and she is entitled to a judgment for these sums that she can enforce if necessary.
32. Was the Claimant entitled to notice of termination of her employment and if so, how much? The Respondent says that it was entitled to dismiss the claimant without notice because of her conduct in sending the WhatsApp messages referred to above. However, the Respondent has also based its case on there having been no written contract between it and the claimant.
33. The Tribunal has found as a fact that no written contract was in fact issued to the claimant, although there was a draft in circulation that was awaiting approval from Ms Tibbles. The Tribunal also found that this draft was not shown to the claimant herself. The consequence of this is that the respondent cannot point to any contractual provision or disciplinary process that would have informed the claimant what standards were expected of her and what kind of conduct on her part could be expected to lead to immediate dismissal. If an employer wishes to be able to dismiss without notice then it must make clear in what circumstances it will do so, as otherwise the employee will remain contractually entitled to be given notice that the contract is to be brought to an end. We find that the respondent did not do this in this case and it has therefore shown no contractual basis for its withholding of notice pay.
34. Turning to the question of the amount of notice to which the claimant was entitled, given the lack of a paper contract the Tribunal is tasked with construing the terms of the contract from the surrounding circumstances, noting that the claimant was a senior employee who would have been entitled to a longer period of notice than the statutory minimum. It is clear from the facts as we have found them that the Respondent intended to issue the claimant with a contract that set out the notice requirements, but as a result of this, as Ms Tibbles put it, having 'fallen off her radar', this never happened. But the draft that was circulated provides clear evidence here of the respondent's intention - if the claimant had resigned, she would be required to

- give 8 weeks' notice and if she were dismissed, she would be entitled to receive 8 weeks' notice. Had a written contract been issued there is strong evidence that these would have been the terms of it and we therefore regard the claimant as entitled to eight weeks' notice. The Tribunal originally made an error in this respect in its oral reasons and found that the draft being circulated only gave the claimant an entitlement to receive 4 weeks' notice. Quite properly Ms Nicholls pointed out that this was erroneous and the Tribunal immediately reconsidered that aspect of its oral decision.
35. What happened in this case is that during the period of the notice the claimant wanted to give, the respondent reached the decision to terminate the claimant's contract. As we have concluded that she was entitled to notice of that termination and there was no proper basis for failing to give notice, we conclude that the respondent should have given the claimant eight weeks' notice (or payment in lieu) and in not doing so it breached the terms of the contract to which she was working, albeit that that contract had not yet been written down. We conclude that the claimant is therefore entitled to eight weeks' notice pay for the period from 14 December 2023 to 11 January 2024.
36. In case its conclusions about the period of notice to which the claimant was entitled were wrong, the Tribunal also considered whether the conduct on which the respondent relied to argue that the claimant had committed gross misconduct did in fact amount to a breach of the implied term and thus a repudiatory breach of the contract. In our judgment the conduct in question fell short of that threshold and whilst reprehensible in a senior manager, did not reach the required level of seriousness to justify immediate dismissal. We concluded this with some hesitation, but after deliberation were not satisfied that the conduct in question indicated that the claimant no longer intended to be bound by the terms of the contract. The evidence suggested that she was letting off steam in a stressful environment, albeit that it was inappropriate to do so to a member of staff who reported to her.
37. For completeness we would also observe that whilst it was clearly the respondent's view that the claimant had acted wrongly in creating the contract at page 63 and that was the basis of its report to Wandsworth Police, the respondent did not argue at any point, including in Ms Nicholls' submissions, that the claimant's conduct in producing the contract at page 63 amounted to gross misconduct that would have disentitled her to notice pay.
38. In light of the findings above we conclude that the claimant is entitled to the following net sums based on a gross annual salary of £200,000:
- a. £4425.80 net (£7692.30 gross) in respect of unpaid wages for the period 1 to 14 December 2023;
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