



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr C Ward

**Respondent:** Authenticated By Limited

**Heard at:** London Central (by CVP)

**On:** 21, 22, 23 October 2025

**Before:** Employment Judge Davidson

## REPRESENTATION:

**Claimant:** In person

**Respondent:** Ms A Acheampong, Litigation Consultant

# RECONSIDERATION JUDGMENT

The Claimant has requested a reconsideration of the original Remedy Judgment relating to unfair dismissal, which had not taken into account pension payments. **The amount of the compensatory award is amended to include pension payments of £25.40 per week for a period of 29 weeks. This amounts to £736.62.**

The award in respect of the unfair dismissal finding is amended as follows:

The respondent shall pay the claimant the following sums:

- (a) A basic award of £3,461.52
- (b) A compensatory award of £15,707.40
- (c) Loss of pension contributions of £736.62
- (d) Loss of statutory rights of £500.00
- (e) ACAS uplift on compensatory award of £3,926.35

TOTAL for unfair dismissal compensation is **£ 24,331.89**

**JUDGMENT** having been sent to the parties on 30 October 2025 and written reasons having been requested by the claimant in accordance with Rule 60(4) of the Employment Tribunal Rules of Procedure 2024, on 3 November 2025, the following reasons are provided.

# REASONS

## Issues

### 1. Unfair dismissal

- 1.1 Was the reason or principal reason for dismissal that the claimant made a protected disclosure?

If so, the claimant will be regarded as unfairly dismissed.

- 1.2 What was the reason or principal reason for dismissal? The respondent says the reason was conduct. The Tribunal will need to decide whether the respondent genuinely believed the claimant had committed misconduct.

- 1.3 If the reason was misconduct, did the respondent act reasonably or unreasonably in all the circumstances, including the respondent's size and administrative resources, in treating that as a sufficient reason to dismiss the claimant? The Tribunal's determination whether the dismissal was fair or unfair must be in accordance with equity and the substantial merits of the case. It will usually decide, in particular, whether:

- 1.3.1 there were reasonable grounds for that belief;
- 1.3.2 at the time the belief was formed the respondent had carried out a reasonable investigation;
- 1.3.3 the respondent otherwise acted in a procedurally fair manner;
- 1.3.4 dismissal was within the range of reasonable responses.

### 2. Notice pay

- 2.1 What was the claimant's notice period?
- 2.2 Was the claimant paid for that notice period?
- 2.3 If not, was the claimant guilty of gross misconduct?

### 3. Protected disclosure

- 3.1 Did the claimant make one or more qualifying disclosures as defined in section 43B of the Employment Rights Act 1996? The claimant relies on the email he sent to Chris Smith on 28 March 2024.

- 3.2 Did they disclose information?
- 3.3 Did they believe the disclosure of information was made in the public interest?
- 3.4 Was that belief reasonable?
- 3.5 Did they believe it tended to show that:
  - 3.5.1 a criminal offence had been, was being or was likely to be committed;
  - 3.5.2 a person had failed, was failing or was likely to fail to comply with any legal obligation.
- 3.6 Was that belief reasonable?
- 3.7 If the claimant made a qualifying disclosure, it was a protected disclosure because it was made to the claimant's employer.
- 4. Protected Disclosure Detriment (Employment Rights Act 1996 section 48)
  - 4.1 Did the respondent suspend the claimant?
  - 4.2 By doing so, did it subject the claimant to detriment?
  - 4.3 If so, was it done on the ground that [they made a protected disclosure?
- 5. Remedy
  - 5.1 If there is a compensatory award, how much should it be? The Tribunal will decide:
    - 5.1.1 What financial losses has the dismissal caused the claimant?
    - 5.1.2 Has the claimant taken reasonable steps to replace their lost earnings, for example by looking for another job?
    - 5.1.3 If not, for what period of loss should the claimant be compensated?
    - 5.1.4 Is there a chance that the claimant would have been fairly dismissed anyway if a fair procedure had been followed, or for some other reason?
    - 5.1.5 If so, should the claimant's compensation be reduced? By how much?
    - 5.1.6 Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?
    - 5.1.7 Did the respondent or the claimant unreasonably fail to comply with it?

- 5.1.8 If so is it just and equitable to increase or decrease any award payable to the claimant? By what proportion, up to 25%?
  - 5.1.9 If the claimant was unfairly dismissed, did they cause or contribute to dismissal by blameworthy conduct?
  - 5.1.10 If so, would it be just and equitable to reduce the claimant's compensatory award? By what proportion?
  - 5.1.11 Does the statutory cap of fifty-two weeks' pay apply?
- 5.2 What basic award is payable to the claimant, if any?
- 5.3 Would it be just and equitable to reduce the basic award because of any conduct of the claimant before the dismissal? If so, to what extent?

### **Evidence**

- 6. The tribunal heard evidence from Chris Smith, CFO, on behalf of the respondent and from the claimant on his own behalf.
- 7. The tribunal had a bundle of documents of 659 pages with further documents being disclosed during the course of the hearing.

### **Facts**

- 8. The tribunal finds the following facts on the balance of probabilities:
- 9. The respondent operates an online marketplace. As part of the platform, the respondent authenticates goods sold by individuals on behalf of the customers so that they are assured that they will receive the goods that they paid for in good condition.
- 10. The claimant was employed as an Operations Manager from 26 October 2020. When the Operations Director was made redundant, the claimant took on additional responsibilities and was given a pay rise. He asked to be titled Operations Director, as he believed this had been promised to him, but the respondent refused because that position was redundant and the title could not be used. I find that the claimant's correct title was Operations Manager.
- 11. The claimant was offered a new contract but he objected to the job title and the increase in notice period from one month to three months. The respondent did not accept the claimant's changes. The claimant states that he then signed the contract in August 2023 and left it on Gina Mawson's desk (HR). The respondent denies receiving it.

12. On 24 January 2024, the respondent followed up regarding the contract and told the claimant that the offer of the new contract had expired at the end of December 2023. The claimant did not respond.
13. I find that the appropriate contract is the claimant's original contract. If the claimant believed that he had signed the contract and delivered it to the respondent, he should have informed the respondent of that when chased for the contract.
14. In March 2024, the claimant had brought an employment tribunal claim in respect of bonus payments, which was partially successful.
15. In November 2023, Gina Mawson learnt that, in the Netherlands operation, there was a discrepancy between the number of Crep 360 coatings sold compared to the number which had actually taken place. She asked the claimant to investigate as the Netherlands was part of his remit. This was referred to in the hearing as Dispute 5.
16. He travelled to the Netherlands and carried out an investigation while he was there. He did not observe any items being shipped without having been coated. He asked the local operations manager (Dony Constantinides) to investigate further.
17. On 7 December 2023, the claimant was invited to an investigatory meeting regarding the failure of the Netherlands warehouse to carry out the coating process in respect of numerous items which had been paid for by customers (Dispute 5).
18. The meeting was conducted by Anthony Leather of Face2Face (a service offered by Peninsula to conduct investigations and disciplinary hearings). He noted that Dony Constantinides accepted that he was responsible, but Dony Constantinides had explained that it is impossible for him to keep track of every single detail. Anthony Leather then noted that the claimant must share responsibility as he is Dony Constantinides's line manager.
19. Anthony Leather concluded that the claimant had failed to manage Dony Constantinides or sufficiently investigate the issue and he recommended that the matter went forward to a formal disciplinary hearing. He also recommended that the claimant was put on a Performance Improvement Plan and that he should undergo training.
20. On 9 January 2024 the claimant was invited to a disciplinary hearing to take place on 11 January 2024. He was told of the allegations against him and was informed that he could be accompanied by a fellow employee. No mention was made of a trade union representative. The respondent's policy does not refer to the right to be accompanied by a trade union representative.

21. The claimant asked for the meeting to be put back as he only had a day to prepare and he had not been sent the transcript of the investigation meeting. Gina Mawson refused to move the meeting. The claimant pointed out that he was working in the business and covering absences which gave him no time to prepare. Again Gina Mawson refused to move the meeting because Peninsula had already scheduled the meeting.
22. The claimant then informed Gina Mawson that his union representative was not available for that time. He informed Gina Mawson of the statutory provisions relating to rescheduling meetings to allow the representative to attend. Gina Mawson then agreed to reschedule the disciplinary hearing but asked the claimant to attend an informal meeting in the original slot. He was told he did not have a right to be accompanied to this meeting.
23. At the informal meeting, a settlement offer was put to the claimant to leave the respondent. He was put on leave while he considered the offer.
24. While the claimant was out of the business, on 19 January 2024 one of his colleagues (Shaz) accessed the claimant's private Whatsapp conversation with a former employee, Aaron Crutchley. Shaz saw something of concern in the messages from a few months earlier which he brought to the respondent's attention. The claimant challenges the respondent's position that Shaz came across the messages by accident. The claimant's position is that his Whatsapp was not left open and, even if it were, it would have been open on the most recent date. I find that there was a deliberate attempt to access the claimant's private messages. Even if they were found on a device belonging to the respondent, it would have been clear that these messages were private and should not have been looked at. In addition, the messages relied on as being 'of concern' date back several months. This indicates to me that these messages were searched, either by way of eavesdropping by Shaz, or by way of a fishing expedition to find something which put the claimant in a bad light.
25. On 6 February 2024, the disciplinary hearing took place in respect of Dispute 5. It was conducted by Chris Smith and the claimant was accompanied by his trade union representative. Chris Smith confirmed he would be the decision maker. At the start of the meeting the claimant read out a pre-prepared statement. The meeting concluded with Chris Smith saying he would write up the notes, carry out any further investigations as required and let him know the decision.
26. The claimant was then asked to attend a second disciplinary hearing to deal with Dispute 5, although no explanation was provided for this. On 28 February 2024, the claimant attended a further disciplinary hearing conducted by Nazma Khanom of Face2Face. The claimant repeated his pre-prepared statement. Nama Khanom finished the report on 7 March 2024. The recommendation was that the claimant be issued with a verbal warning to remain on file for 3 months.

The respondent adopted the findings and recommendations of Nazma Khanom and the claimant was issued with a verbal warning for 3 months on 19 March 2024.

27. The claimant commenced employment tribunal proceedings for his bonus on 8 March 2024.
28. Shortly after receiving the verbal warning, the claimant received an invitation to an investigation meeting to be held on 28 March 2024 to discuss concerns about his conduct. (These matters were referred to as Dispute 6 during the hearing.)
29. On 23 March 2024, the claimant appealed against the verbal warning issued for Dispute 5.
30. On 28 March 2024, there was an investigation meeting conducted by Helen Pearson of Face2Face relating to the conduct allegations in Dispute 6. These included reliance on the evidence of Shaz, although this was presented to the claimant as an anonymous witness.
31. Also on 28 March 2024, the claimant wrote to Chris Smith making 'qualifying disclosures' in respect of the following:
  - 31.1 customers being charged for 360 protection not provided and third party provider Imbox not made aware;
  - 31.2 falsely declaring the value and origin of goods shipped between warehouses to avoid customs and duties;
  - 31.3 selling customer goods as Klekt goods under the term 'free items' and keeping revenue without permission of the sellers.
32. Helen Pearson of Face2Face compiled her investigation meeting case report and sent it to the respondent on 10 April 2024. She recommended that the claimant be invited to a disciplinary hearing to answer the following allegations:

*1a. It is alleged that during the course of your employment you have made multiple rude and objectionable comments to an ex-employee AC regarding your Employer.*

*Examples being (but not limited to):*

- i. Objectionable comments that refer to GM or Francesca as 'a wet towel'.*
- ii. Objectionable comments that you have made the comment that 'it's going to be a shit show' regarding the 2023 bonuses.*
- iii. Objectionable comments that 'Chris and Gina are useless'.*

*iv. Objectionable comments regarding message 28 in reference to GM's capability.*

*1b. It is alleged that the above comments show a disrespect for management and authority and are wholly inappropriate to make to a third party regarding your employer.*

*2. It is alleged that that you are not willing to participate in the inventory project stating 'let it crash and burn' and therefore unwilling to respond to reasonable management instructions.*

*3. It is alleged that you have taken part in activities which cause the company to lose faith in your integrity namely, alleged unauthorised disclosure of confidential company information to a third party.*

*a. Further particulars being that it is alleged that on 10th January 2024 without lawful authority or good reason you divulged sensitive and confidential company in the form of your Disciplinary Hearing Invitation to a third party, who is a former Employee of the Company.*

*4. It is alleged that you have taken part in activities which cause the company to lose faith in your integrity namely;*

*a. It is alleged that on 4th March 2024 you falsely informed ACAS of information regarding the 2022/2023 bonus payment in order to support the erroneous ACAS claim of an ex-colleague, specifically AC.*

*b. It is alleged that by falsely supplying the incorrect information to ACAS on 4th March 2024 your actions could have resulted in a serious financial loss to the Company.*

33. On the following day, 11 April 2024, the claimant was suspended '*as a holding measure pending further investigations*'. He was instructed not to connect or influence or discuss the matter with any other employee or client and a failure to comply with this would be treated as an act of misconduct. He was invited to a disciplinary hearing on 19 April 2024.
34. On 16 April 2024, Brad Kemsley of Face2Face, conducted the appeal hearing in relation to Dispute 5. He recommended that the appeal should be dismissed. The respondent's decision maker was Chris Smith who adopted Face2Face's recommendation, and the appeal was dismissed on 1 May 2024.
35. On 29 April 2024, the disciplinary hearing in relation to dispute 6 was held by Mark Silvey from Face2Face. Following the hearing Mark Silvey asked Gina Mawson for some follow-up information from the anonymous witness. He also



asked for further information from Gina Mawson and for contact details of other potential witnesses.

36. Mark Silvey completed his report on 20 May 2024. He upheld some of the allegations and dismissed others. His recommendation was that the claimant should be issued with a first and final written warning for serious misconduct.
37. Chris Smith, in evidence, stated that the respondent adopted Mark Silvey's recommendation although he was not able to show where a first and final written warning had been issued. He said that further matters came to light after dispute 6, which he termed dispute 7. These were that the claimant '*continued to send inappropriate emails and contact fellow colleagues despite being told not to do so whilst on suspension and during this process. You have also repeatedly denied facts when presented with evidence.*'
38. On 22 May 2024, HR sent Nohman Ahmed (director and decision maker) an email giving him a draft dismissal letter to send to the claimant, instructing him to sign before attaching together with details of the claimant's email address and wording for the covering email. The letter was sent by Nohman Ahmed to the claimant later that day, 22 May 2024 confirming the claimant's dismissal for gross misconduct. He was given the right of appeal to Chris Smith, which he did not take up.
39. In evidence, Chris Smith told the tribunal that if the claimant had appealed, he would not have upheld the appeal. He accepted that there was no disciplinary process in respect of the additional allegations of misconduct but he stated that he thought these were sufficiently serious not to require a disciplinary process.

#### The relevant law

##### *Unfair dismissal*

40. When considering whether a conduct dismissal is fair, the tribunal must follow the principles set out in *British Home Stores v Burchell* [1978] IRLR 379 affirmed by the Court of Appeal in *Post Office v Foley* [2000] ICR 1283.
41. Under *Burchell*, the tribunal must consider whether or not the employer had an honest belief that the employee had committed the misconduct, whether there were reasonable grounds on which to base that belief and whether the employer had carried out a reasonable investigation.
42. The tribunal must also consider whether a fair procedure was followed and whether the employer's decision to dismiss was within the range of reasonable responses.

*Whistleblowing*

43. "Protected disclosure" is defined in s43A Employment Rights Act 1996. In this Act a "protected disclosure" means a qualifying disclosure (as defined by section 43B) which is made by a worker in accordance with any of sections 43C to 43H.
44. "Qualifying disclosures" are defined by s43B ERA 1996,

*43B Disclosures qualifying for protection*

- (1) In this Part a 'qualifying disclosure' means any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the following ... a criminal offence had been, was being or was likely to be committed; a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject.
45. The disclosure must be a disclosure of information, of facts rather than opinion or allegation (although it may disclose both information and opinions/allegations), *Cavendish Munro Professional Risk Management v Geldud [2010] ICR; Kilrairie v LB Wandsworth [2016] IRLR 422*.
46. The test for "reasonable belief" is a subjective test.
47. In determining whether the reason for the Claimant's dismissal was his alleged disclosure, it is not sufficient for the disclosure to be "in the employer's mind" or for it to have influenced the employer. The Tribunal must consider whether that disclosure was the "sole or principal reason" for his dismissal,

Determination of the issues

*Unfair dismissal*

48. I find that the dismissal was unfair, both substantively and procedurally. The claimant was informed by a colleague that the respondent wanted to get rid of him and I find that the respondent's conduct supports this. I will consider later why this might be.
49. The claimant was subjected to a disciplinary process in respect of Dispute 5 which I find was unfair. The allegations did not stand up to scrutiny and the respondent did not take into account the representations made by the claimant. The claimant had to go through two disciplinary hearings for the same allegations and no explanation was given to him for this.
50. In relation to dispute 6, the claimant was suspended pending investigations, after the investigation into the allegations had taken place. No explanation was put forward for this. The allegations do not support the need for the claimant to be suspended.

51. The disciplinary recommendation was for a first and final written warning. I do not propose to deal with the numerous flaws in this process in detail as these are not relied on to support the dismissal, but I find that it was inappropriate to have accessed the claimant's Whatsapp messages. The messages were sent to a friend and former colleague and were not intended to be seen by anyone else. The claimant was not told who had found the messages and the anonymous witness should not have been able to hide his identity, given the circumstances of how he found the information he reported.
52. The decision to escalate this to dismissal was due to subsequent misconduct alleged against the claimant (dispute 7). These allegations were never put to the claimant, there was no process whatsoever in respect of these. The claimant was not informed of the allegations and was not given an opportunity to make representations or defend himself.
53. In addition, the allegations were set out disingenuously. The dismissal letter refers to the claimant continuing to send inappropriate emails and contact fellow colleagues. The only evidence before the tribunal was a statement from Rosanna Payne (Brand Executive of Presented By), reporting what she had heard from Denisa (another employee in the warehouse). This was sent to Chris Smith and HR (Gina Mawson) on 14 May 2024. Rosanna Payne refers to a message from the claimant to Denisa on 9 May 2024 which she states the claimant was '*suggesting what to say and influencing her what to say to HR when contacted*'. The only screenshot provided by the respondent was an exchange of messages on 2 May 2024 from which it appears that Denisa started the conversation, although this can't be definite from the information available. All the claimant does is tell Denisa to tell the truth if she is asked anything.
54. Despite implying that the claimant had committed numerous breaches, the only contact he had during his suspension evidenced by the respondent was an exchange, possibly initiated by Denisa, in which he told her to tell the truth. Rosanna Payne has categorised this as the claimant '*suggesting what to say and influencing her what to say to HR when contacted*'. There is no statement from Denisa. The respondent says that Gina Mawson followed up with Denisa but there is no note of this and we did not hear any evidence from Gina Mawson. Even if she did follow up with Denisa, the tribunal has no evidence of what Denisa said. It appears that Gina Mawson never saw Denisa's screenshots herself, although this cannot be confirmed because she did not give evidence to the tribunal.
55. The other additional allegation is that the claimant repeatedly denied facts when presented with evidence. Chris Smith explained that this referred to the claimant stating in his disciplinary hearing that he had not sent a free label to Aaron Crutchley even though the text messages indicate that he did. The claimant's position was what he stated to the disciplinary hearing. As it happens, the

allegation to which this was the claimant's defence was upheld by Mark Silvey. The respondent has not identified the evidence which was put to the claimant which he is alleged to have denied. Again, the allegation overstates the situation as the claimant showing a pattern of behaviour by the accusation that he 'repeatedly denied facts'. This allegation was not put to the claimant. It is not suggested by Mark Silvey that the claimant was being dishonest. Mark Silvey upheld that specific allegation but it is not the case that an employee who disputes an allegation which is then upheld has committed an act of gross misconduct by putting their case.

56. I find that the respondent wanted to dismiss the claimant. The independent disciplinary hearing did not find misconduct sufficient to warrant dismissal (correctly in my view). The respondent then dismissed anyway based on new allegations, not tested and not amounting to gross misconduct in any event.
57. I cannot conclude whether the respondent genuinely believed that the respondent committed the acts of misconduct as the alleged decision maker did not give evidence to the tribunal. However, I find that in relation to the gross misconduct allegations, there was insufficient investigation as set out above.
58. In addition, I find that Nohman Ahmed did not review the evidence or reach his own decision on the dismissal. He was given a draft letter by Gina Mawson and instructed how to send it to the claimant in his name, which he did. The letter had clearly been written by HR and there is no evidence that Nohman Ahmed had any input into its drafting.
59. Dismissal was not within the range of reasonable responses. The dismissal is unfair.

*Notice pay*

60. I find that the claimant did not commit any act of gross misconduct and he is entitled to notice pay. I find that his notice period is 1 month.

*Whistleblowing*

61. On the whistleblowing claim, I do not find that the qualifying disclosure is a protected disclosure or, if it is, I find that it was not made in good faith. I find it was made tactically as part of the context of disputes between the parties. I do not find that the suspension was because of the disclosure. I find the claimant would have been suspended in any event, even though the suspension had no basis. I find that the respondent's intention to dismiss the claimant had its origins before the disclosure was made and I do not find that the disclosure was the reason or principal reason for dismissal.

62. It is more likely in my view that the claimant was a thorn in the side of the respondent. He disputed the contract and then brought tribunal proceedings for his bonus, partially successfully.

*Remedy issues*

63. I find that the claimant cannot be criticised for failing to appeal against the dismissal. Notwithstanding Chris Smith's concession that no procedure was followed in respect of the allegations which led to dismissal, he confirmed that he would not have upheld the appeal. The claimant had had a previous appeal rejected without sufficient scrutiny of his appeal points and he was entitled not to engage further in the process.
64. Looking at Polkey, I find that the dismissal was substantively unfair. The claimant had not committed any misconduct which warranted dismissal, whether summary or on notice. It is therefore not a case of a procedural defect where the outcome would have been the same.
65. The respondent has not identified any conduct on the part of the claimant which could reasonably have contributed to his dismissal. I therefore decline to make any adjustment for contributory conduct.

Employment Judge Davidson

Reconsideration dated 7 November 2025  
Reasons dated 7 November 2025

Reconsideration Judgment and Reasons sent  
to the parties on:

25 November 2025

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For the Tribunal:

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