



# EMPLOYMENT TRIBUNALS

**Claimant**  
A Petroi

v

**Respondent**  
The Soho Sandwich  
Company Limited

**Heard at:** Reading (by video and in person)

**On:** 4 November 2025 (and 6 and 15 January 2026 in chambers)

**Before:** Employment Judge W Anderson  
B Osborne  
D Sagar

## **Appearances**

**For the claimant:** Ms A Bucur (lay representative)

**For the respondent:** Mr Farouk (litigation consultant, Peninsula)

## **RESERVED JUDGMENT ON REMEDY**

1. The respondent is ordered to pay the claimant the sum of £60,747.53 within 28 days of receiving this judgment.
2. It is for the parties to make arrangements with HMRC for the payment of any tax.

## **REASONS**

### **Background**

1. In a decision dated 22 May 2025 the tribunal upheld the claimant's claims of constructive unfair dismissal, direct age discrimination, victimisation, unauthorised deductions from wages, breach of the Working Time Regulations 1998 and breach of contract.

### **The hearing**

2. A remedy hearing took place on 3 November 2025. The parties provided a bundle of 238 pages. The respondent filed a witness statement from Shakila

Mahmood. Ms Mahmood and the claimant gave evidence on oath at the hearing. Ms Bucur and Mr Farouk both made oral closing submissions.

3. Ms Bucur sought to adduce evidence about a restrictive covenant in the claimant's contract from 2013. This was not an argument the claimant had put forward in her oral evidence for the liability hearing which did include remedy evidence, nor was it raised in the annotated schedule of loss on which she relied as her witness statement for the purposes of the remedy hearing. The tribunal declined to hear any evidence on this matter, where it had clearly played no part in the claimant's actions or intentions as regards any searches for employment she made.

**Relevant findings of fact**

4. The claimant resigned from her employment with the respondent with effect from 27 May 2022.
5. The claimant said that she had no way of asking for a reference. The tribunal does not accept this. She had contact details for various of the respondent's employees and her son in law worked for the respondent. The claimant could have asked for a reference.
6. The claimant said that the respondent would not recognise her job and therefore could not give her a reference. The tribunal finds that even if the job title the respondent may have used in any reference was different to the one the claimant believed she had, this does not mean that it could not have given a reference.
7. The tribunal accepts the oral evidence of Ms Mahmood that had the claimant asked for a reference, a reference would have been provided. It accepts her evidence that all ex-employees who asked for one would receive a general reference setting out their length of service.
8. The tribunal finds that the claimant incorrectly, and without evidence, assumed that the respondent would not provide her with a reference, or a good reference, and for that reason did not request one.
9. The claimant said that for this reason she limited her job search to roles that do not typically require a reference. However, the claimant also said that she applied to a number of major retailers such as Costa and Tesco. The tribunal finds that this evidence is inconsistent. The point was put to the claimant by Mr Farouk that major retailers would require references. The claimant said she did not know because she submitted her CV in person.
10. It is the claimant's case that she applied for 200 jobs by dropping in her CV at various premises. Mr Farouk said she had no evidence of this and no evidence of a single rejection. The claimant referred to photographs of a notebook she says she kept listing the jobs she applied for each month. The tribunal noted that the claimant had her telephone number and her email address on her CV but provided no evidence of having received either enquiries or rejections by email or text/WhatsApp. Her position is that she had no responses from any of those speculative applications. The tribunal finds

that the claimant's evidence lacks credibility. While it accepts that the claimant may have made some speculative applications it finds that she did not make the 200 applications she claims to have made and to be evidenced by the notebook.

11. The claimant also claimed to have made some online applications with the help of her daughter. Mr Farouk noted that the evidence provided was undated. The claimant said that one page (p185 remedy bundle) was from June 2025. Mr Farouk suggested that the evidence of jobs viewed was all relating to the same date. The claimant said she applied every day. The tribunal notes that there is one confirmation of a job application and no rejections. The documents are undated as noted. It finds that there is no evidence of regular ongoing job searches made or jobs applied for online for the period of three years in which the claimant says she was searching.
12. The respondent provided two letters from recruitment agencies it uses stating that there are and have been throughout the entire period of the claimant's unemployment, ongoing vacancies in food preparation establishments. The two letters were written by the same person. Ms Mahmood explained that the author worked for the recruitment agency the respondent used in 2022 and then set up his own business, which they now also use.
13. While the supply of two identical letters, one on headed paper and one not (and also unsigned) was confusing and unnecessary the tribunal accepts the evidence that there were roles available in food preparation between June 2022 and July 2025 that the claimant could have applied for, as this evidence is supported by the evidence of the articles from trade press and Ms Mahmood's written and oral evidence on the difficulty of recruiting enough staff, as well as a rival firm poaching staff.
14. It is the claimant's position that she suffered a loss of self-esteem and self-confidence, and physical ill health (sleeplessness and palpitations), as a result of the treatment she received from the respondent in May and June 2025. She says that insomnia has been ongoing since her dismissal in June 2025. She says that she has taken over the counter remedies such as valerian and magnesium for insomnia on the advice of her pharmacist. Mr Farouk put it to the claimant that she had not sought medical advice. The claimant said that she was a woman brought up in a communist state and would not go to the doctor about such things.
15. The tribunal accepts the claimant's evidence that the claimant suffered a loss of self-esteem and self-confidence after her dismissal. It accepts that she may have suffered from low mood, sleeplessness and palpitations in the period leading up to and after her dismissal due to the way she was treated by the respondent. The claimant sought treatment from her GP for a chest infection in May 2022 and the tribunal finds that if the claimant, who lives with her adult daughter and son in law, had suffered the level of ill health described in the schedule of loss, i.e. three years of severe insomnia brought about by anxiety, that medical advice would have been sought.

## Decision and Reasons

16. The claimant has not sought a declaration or a recommendation. The tribunal does not make a declaration or a recommendation.
17. Though referring to compensation awarded under the Employment Rights Act 1996, Sir John Donaldson in *Norton Tool Co Ltd v Tewson 1972 ICR 501* said that a compensatory award was '*not to be assessed by adopting the approach of a conscientious and skilled cost account or actuary.*'
18. Compensation for unfair dismissal can be awarded by the tribunal under s123 Employment Rights Act 1996 and, where there is a breach of the Equality Act 2010, under s124 of that Act.
19. Most of the figures in respect of unpaid wages and holidays were set out in the liability judgment and no further explanation is provided for those findings in this judgment.
20. All calculations are based on the claimant's daily rate of pay of £88.14 (gross)/£71.67(net). The claimant worked a six day week. Annual salary is £27500 (gross)/£22,362.16 (net). There was no dispute between the parties about these figures.
21. The tribunal made the following decisions in relation to the various heads of claim.
22. Unauthorised deductions from wages:
  - 22.1. For the reasons set out at paragraph 122 of the liability judgment the respondent must pay the claimant the sum of **£440.70 (gross)/£358.35 (net)**.
  - 22.2. For the reasons set out at paragraph 123 of the liability judgment the respondent must pay the claimant the sum of **£264.42(gross)/£215.01 (net)**.
23. Holiday Pay
  - 23.1. For the reasons set out at paragraphs 127 to 133 of the liability judgment the respondent must pay the claimant **£352.56(gross)/£286.68(net)** being four days unpaid holiday.
  - 23.2. For the reasons set out at paragraphs 134 of the liability judgment the respondent must pay the claimant **£273.23(gross)/£222.18(net)** being 3.1 days of unpaid holiday.
24. Breach of contract
  - 24.1. The tribunal found that the respondent had breached the claimant's contract by failing to pay the full 32 days per annum holiday pay, to which she was contractually entitled, from 2008 to 2020. The reasons for this decision are set out at paragraph 139 of the liability judgment.

24.2. The claimant provided in her schedule of loss her figures for unpaid holiday from 2016 to 2022. She refers in that table to paragraph 140 of the liability judgment, but her figures also refer to paragraph 139. Mr Farouk said for the respondent that it did not agree with the figures, but he put forward no alternatives, did not specify which figures he believed were incorrect or why, and did not address the findings of paragraph 139 of the liability judgment in submissions or the counter schedule. The tribunal therefore accepts the claimant's figures for unpaid holiday for the years 2016 to 2019 and awards 3 days under the head of breach of contract for 2020 for the reasons set out below. This amounts to 17 days and a figure of **£1498.38 (gross) /£1218.39(net)**.

24.3. As this is a claim for breach of contract, losses can be recovered for six years prior to the date of claim. Four days of the loss in respect of 2020 is accounted for at paragraph 20.1 above so the claimant is owed a further three days for unpaid contractual holiday in 2020.

24.4. The tribunal found that there was no breach in 2021(paragraph 133 liability judgment).

24.5. For the reasons set out at paragraphs 140 of the liability judgment the respondent must pay the claimant **£141.02(gross)/£114.67(net)** being 1.6 days of unpaid holiday.

25. Loss of statutory rights

25.1. The claimant is awarded **£400**.

26. Unfair dismissal – basic award

26.1. The parties agreed that the basic award for unfair dismissal was **£10,312.38** gross. As the total financial award will be subject to grossing up the tribunal has calculated that the net basic award is **£8385.39**.

27. Unfair dismissal – compensatory award

27.1. As the tribunal concluded in the liability judgment that the respondent had committed a repudiatory breach of contract in discriminating against the claimant on the grounds of age (paragraph 82) it has awarded financial loss resulting from the claimant's dismissal as a loss flowing from discrimination. No award is made, therefore, under the heading of compensation for unfair dismissal.

28. Discrimination – Financial Loss

28.1. The claimant has not worked since her dismissal on 27 May 2022. She claims past financial loss for the period commencing 27 May 2022 up until 28 July 2025 which was the date on which the remedy hearing was originally listed. She claims future loss for a further 12 months from 28 July 2025.

28.2. It is the claimant's case that she has sought to mitigate her losses by applying for numerous jobs but has been unsuccessful and that her chances of obtaining employment are significantly reduced due to her age,

reputational harm and the likelihood of receiving a poor reference from the respondent.

- 28.3. The respondent's position is that the claimant should be awarded financial loss of no more than six months as there was work available at the time of her dismissal with other similar employers, employers in food retail have been unable to recruit as many staff as they need over the last few years indicating she could have found work, and the claimant limited her own re-employment chances by failing to apply for jobs which may require a reference, due to the mistaken assumption that the respondent would not give her a positive reference.
- 28.4. The claimant worked on a sandwich preparation line in a sandwich preparation factory. Although the tribunal has found that she was constructively dismissed, for the purposes of any employment reference that may have been sought, she was not dismissed but resigned. The claimant did not seek a reference. She clearly had the means to do so. The tribunal has accepted the respondent's evidence that food preparation jobs were available at the time of her resignation and in the years after.
- 28.5. While the tribunal accepts that the claimant may have applied for some jobs, it has found that her evidence of sustained unsuccessful job hunting for entry level non-food preparation jobs lacks credibility. The tribunal finds that the claimant's failure to request a reference and thereafter to limit her job search to jobs that did not require a reference was unreasonable.
- 28.6. The burden is on the respondent to show that the claimant failed to mitigate (*Fyfe v Scientific Furnishing Ltd [1989] IRLR 331*), and the respondent needs to show that any such failure was unreasonable (*Wright v Silverline Car Caledonia Ltd UKEATS/0008/16*).
- 28.7. It is the view of the tribunal, for the reasons set out above, that respondent has shown that there was an unreasonable failure to mitigate. However, it has taken into account the fact that the claimant was suffering from low mood and sleeplessness in the immediate aftermath of her dismissal. It has accepted that there was a significant impact on her confidence. It is the decision of the tribunal that although there would have been opportunities for alternative employment from the time of her dismissal, the shock of the events that unfolded in May and June 2022 were such that a period of time should be allowed for recovery. The tribunal awards past financial loss flowing from discrimination of 12 months from the date of dismissal, being a sum of **£27,500 (gross) or £22,362.16 (net)**.
- 28.8. The claimant claimed in her schedule of loss that she had a contractual entitlement to work on bank holidays. That was not an argument put forward by the claimant in the liability hearing, and it is not a finding that was made by the tribunal in the liability judgment. No award has been made in this respect for loss of earnings.

28.9. The tribunal has awarded a 15% uplift on this award due to the respondent's failure to comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures. The reasons for this are set out below at paragraph 30. The uplift net figure is **£3354.32 (net)**. The total award for financial loss including the uplift is **£25,716.48 (net)**

28.10. The claimant claims interest on this sum and interest is awarded at a rate of 8% from the midpoint between the date of the first act of discrimination complained of and upheld (28 April 2022) and the date of the tribunal's decision on this head of claim (6 January 2026). The midpoint is 2 March 2024.

28.11. The interest is **£3804.63 (net)** and the total award for financial loss, including the uplift and the interest, is **£29,521.11 (net)**

## 29. Injury to Feelings

29.1. In *Vento v Chief Constable of West Yorkshire Police (No.2) 2003 ICR 318*, CA Lord Justice Mummery identified three broad bands of compensation for injury to feelings, as distinct from compensation for psychiatric or similar personal injury. These comprised:

- a top band of between £15,000-25,000: to be applied only in the most serious cases, such as where there has been a lengthy campaign of discriminatory harassment. Only in very exceptional cases should an award of compensation for injury to feelings exceed £25,000
- a middle band of between £5,000-15,000: for serious cases that do not merit an award in the highest band, and
- a lower band of between £500-5,000: appropriate for less serious cases, such as where the act of discrimination is an isolated or one-off occurrence. The Court said that, in general, awards of less than £500 should be avoided, as they risk being regarded as so low as not to be a proper recognition of injury to feelings.

29.2. These bands have been adjusted for inflation since that judgment and, for the purposes of this case, are £990 to £9900 for the low band, £9900 to £29600 for the middle band and £29,600 for the higher band.

29.3. The claimant claims 'an award for injury to feelings at the top of the Vento upper band for 2022, or exceptionally beyond it, in light of the impact, severity, duration and institutional nature of the discriminatory treatment she was subjected to'. The respondent suggests that £9900, the top of the bottom Vento band for 2022 would be an appropriate award.

29.4. The tribunal has found that the claimant suffered direct age discrimination, harassment and victimisation. It has found that this discrimination was one of a number of repudiatory breaches of contract that led to the claimant's constructive unfair dismissal.

- 29.5. In reaching a decision on the appropriate award the tribunal had the benefit of written submissions on an annotated schedule of loss and counter schedule as well as oral witness evidence from the claimant and oral submissions from both sides.
- 29.6. The claimant claims that the discrimination she suffered undermined her self-worth and dismantled the professional confidence she had built over 14 years. She says that she has been unable to regain her self-esteem and this has in turn meant she has been unable to find new employment. She claims to have experienced difficulty in concentration and a drop in motivation. She claims to have suffered from prolonged insomnia, severe stress and palpitations from which she is only now recovering. The claimant claims that a chest infection she suffered in May 2022 was a result of low immunity caused by the stress of the respondent's actions.
- 29.7. The claimant presented no medical evidence of ill health to the tribunal, other than a fit note for one week in May 2022. When asked about this she said she was a woman who was brought up in a communist state and would not go to the doctor about such things.
- 29.8. While accepting that there was discrimination against the claimant the tribunal does not accept the characterisation of the events during April, May and June 2022 that is set out in the annotated schedule of loss. It does not agree that the discriminatory behaviour was 'overt, intentional and executed in a manner designed to isolate and belittle'. It does not accept that 'It reflected not occasional insensitivity but a sustained culture of exclusion, targeting her age and questioning her place within the organisation'.
- 29.9. The comments made were to refer to the claimant as a grandmother, to suggest that she should ignore the poor behaviour of younger members of staff and to suggest that young people were more in need of reward to motivate them than an older person. While the tribunal has found that all of these actions were discriminatory, it finds no evidence of an intention to isolate and belittle. It has not found that there was a campaign against the claimant or that any of the acts of discrimination were malicious.
- 29.10. It is accepted that the respondent made a poor job of addressing the claimant's complaints about these matters, but it has not found that this was deliberate, or that that failure was discriminatory. Many of the claimant's allegations of discrimination were not upheld.
- 29.11. The tribunal made clear in its findings of fact in the liability judgment that it understood the claimant to be very upset about the issue of potentially being demoted or having her seniority undermined by Mr Sayed, and then by Mr Khalid (liability judgment paragraphs 32 and 33). This was what led to her initial grievance, not that she had suffered age discrimination. The issue of demotion is one of the claimed breaches of contract in relation to unfair dismissal and was clearly a significant factor in her decision to resign.

29.12. While the tribunal accepts that the claimant was distressed by the discrimination she suffered, where there is no independent evidence of long lasting health problems directly related to that discrimination, where she has claimed she was well enough to search for alternative employment, where the events complained of took place over a two month period at the end of a 13 year period of employment with the respondent, and where a number of other factors were relevant to the claimant's decision to resign, and where there is no evidence of malice or a campaign against the claimant, the tribunal does not accept that this is a case which falls in to the top Vento band. It does not accept that the discriminatory comments were delivered in a high handed and oppressive manner for the purpose of the CPM v Shaw case. It does not accept that the behaviour of the respondent was of the severity, duration and institutional nature claimed in the annotated schedule of loss and this is clear from its findings in the liability judgment.

29.13. It is the view of the tribunal that an appropriate award would be in the lower middle Vento band and the award made is **£11,000**. The discriminatory behaviour of the respondent was more than a one off and was one of the reasons which led the claimant to resign. The tribunal accepts that the claimant was insulted and distressed by the respondent's behaviour and that this impacted her self-esteem. It accepts that it caused her ill health in that she suffered from sleeplessness and anxiety in the immediate aftermath.

29.14. The tribunal has awarded a 15% uplift on this award due to the respondent's failure to comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures. The reasons for this are set out below at paragraph 30. The uplift figure is **£1650.00**. The total award for injury to feelings including the uplift is **£12,650 (net)**.

29.15. The claimant claims interest on this award and interest is awarded at a rate of 8% from the date of the first act of discrimination upheld which was on 28 April 2022, until the date of the decision made by the tribunal on 6 January 2026.

29.16. The interest sum is **£3740.24 (net)**. The total award for injury to feelings including the uplift and interest is **£16,390.24 (net)**.

### 30. ACAS uplift.

30.1. Under s207A Trade Union and Labour Relations (Consolidation) Act 1992 the tribunal may increase any award it makes to the employee by no more than 25%, should it decide that it is just and equitable to do so, where an employer has not followed the ACAS Code of Practice on Disciplinary and Grievance Procedures.

30.2. The claimant claims an uplift of 25% on the awards of financial loss and injury to feelings. The respondent says that some investigation of the claimant's grievance was made, and the award should be no more than 8%.

30.3. The claimant raised grievances in writing on 27 and 28 April 2022. The findings of the tribunal on the steps taken by the respondent in response to the grievances in this matter are set out at paragraphs 76 of the liability judgment as follows:

*It is clear from the documentary evidence that the respondent did carry out some investigation into the claimant's complaints of bullying relating to the incident on 27 April 2022, however, the tribunal finds that the investigation was not sufficient and that there was a complete failure to investigate the second complaint relating to an incident on 28 April 2022. In relation to the incident on 27 April, the respondent failed to interview two people that the claimant asked it to speak to. The respondent refused to look at CCTV footage, a request made by both the claimant and by the alleged perpetrator of the bullying. The claimant was told by Mr Silverston not to talk about discrimination and by Mr Khalid not to talk about bullying. The respondent said that Mr Sayed had received a warning. Other than Ms Mahmood's assertion that that is what happened, there is no documentary evidence that he was given a warning, no documentary evidence about the conclusions of the investigation, and no letter to the claimant setting out the outcome of her grievance. Neither was there a meeting in which the outcome was discussed. The tribunal finds that the respondent failed to properly investigate the claimant's complaint about bullying and that this was a breach by the respondent of the implied term of trust and confidence.*

30.4. The tribunal does not agree with respondent's submissions as set out in the counter schedule of loss. The respondent did not make every possible effort to investigate the incident of 27 May 2022 and that is not what the tribunal has found at paragraph 46 of the liability judgment. The finding that the meeting of 8 June 2022 was not a grievance meeting (paragraph 51 liability judgment) is not a point in the respondent's favour. The tribunal does not accept that the respondent made every effort to comply with the ACAS code.

30.5. The tribunal found that there were significant failings in relation to the first grievance and that the second was not investigated at all. The decision of the tribunal is that the awards of financial loss and injury to feelings should be increased by 15%. While there were significant failings, the respondent did carry out investigations into the events of 27 April 2022 which involved interviewing a number of employees and documenting those interviews. It did also provide a verbal response of sorts on 27 May 2022. The tribunal has made a substantial award of damages to the claim in this case and finds that an uplift of 15% is just and equitable.

31. The awards for compensation for financial loss, including the basic award, and injury to feelings have been grossed up so that the claimant receives the sum awarded by the tribunal once tax has been deducted. The figure was calculated as follows:

Total Net Award		£57,112.02
<u>Deductions</u>		
Less tax free amount of	£30,000	£27,112.02
Less personal allowance 25/26	£12,570	£14,542.02
<u>Grossing up</u>		
Add grossing up of £14,542.02	£3635.51	£18,177.53
Total Grossed Up Award		<b><u>£60,747.53</u></b>

Approved by:

Employment Judge W Anderson

Date: 15 January 2026

Sent to the parties on: 23 January 2026

For the Tribunal Office