



EMPLOYMENT TRIBUNALS

Claimant: Sarah Gibbons

Respondent: Break

Heard at: Norwich (via video link) **On:** 14th January 2026

Before: Employment Judge Mr A. Spencer

Representation

Claimant: In person

Respondent: Mr. D Chapman (solicitor)

JUDGMENT

1. The name of the respondent is hereby amended to “Break”; and
2. The complaint of wrongful dismissal/breach of contract is not well founded and is hereby dismissed.

REASONS

Introduction

1. The case came before me this morning for a final hearing.
2. The claim form was presented to the tribunal on 31st March 2025 after a period of early conciliation from 24th January to 11th February 2025.
3. The claimant brings only one complaint. This is set out in the claim form at section 8.1. as “*another type of claim that the employment tribunal can deal with*”. The claimant expressed that complaint in the claim form as “*wrongful dismissal as policy not followed*”. The claimant raised the same complaint with the respondent before these proceedings were issued. She asserts that the respondent breached her contract of employment by dismissing her without first following their disciplinary and dismissal procedure and in particular without first giving her disciplinary warnings before resorting to dismissal.
4. The claimant does not make the more conventional wrongful dismissal

claim in that she does not assert that it was a breach of her contract of employment to dismiss her without notice.

5. In her witness statement, the claimant referred to further policies or procedures which she said were not followed. In particular she refers to:
 - (a) The ACAS Code of Practice - Disciplinary and Grievance Procedures; and
 - (b) A Health and Wellbeing Standard;
 - (c) A Leadership and Management Standard.
6. The claimant sought permission to amend the claim at the outset of the hearing to add these three further alleged breaches of contract. The application was opposed by the respondent and refused for reasons given at the time which appear below.

Amendment Application

7. The original claim was a simple and focused claim. It was a complaint of wrongful dismissal / breach of contract. In the claim form the only detail given was "*wrongful dismissal as policy not followed*". The claim form referred to only one policy. The respondent understood that to be a reference to their dismissal and disciplinary policy. They clearly formed that view because the claimant had asserted a failure to follow that policy in her appeal letter. That understanding is reflected in the Response from the respondent. They responded to the claim referring only to that policy and procedure and by asserting that it was a non-contractual policy. They also sent correspondence to the claimant later in the life of the case which again clearly set out that this was their understanding of her claim.
8. In the claimant's witness statement she raises further allegations of the respondent failing to comply with three additional policies. The claimant accepted that there was no reference in her original claim to those additional policies and made an application for permission to amend the application. This was opposed by the respondent.
9. When considering amendment applications the so-called "Selkent principles" apply. This essentially requires a balancing exercise - balancing the prejudice to both parties in either granting or refusing the application. The case of *Selkent* suggests that there are certain factors that the tribunal should take into account but essentially the tribunal should take all the circumstances into account. I have taken into account for example:
 - (a) the nature of the amendment application. It is an amendment of real substance. It seeks to add three additional alleged terms of the contract and additional alleged breaches of contract;
 - (b) the timing of the application. It is made almost as late in the life of the case as it could possibly have been made. It was made at the outset of the final hearing;
 - (c) any reasons for that delay. The claimant advanced no reasons for delay other than the fact that she didn't think about those additional matters when raising the claim;
 - (d) if I grant permission to amend it will result in today's hearing being adjourned. With the exception of the ACAS Code of Practice (which

I can access online) the other two policies and procedures are not within the hearing bundle. Furthermore it will be unfair to the respondent to proceed with the hearing today when they have not had an opportunity to respond to the amended claim. It will also cause considerable delay and wasted cost if I adjourn the hearing.

10. I accept that it will prejudice the claimant to refuse the application in that she will not be able to have all her arguments considered by the tribunal. However, the weight of prejudice in this case clearly favours refusing the application and so the application is refused.

Correcting the Respondent's Name / other preliminary issues

11. Both parties agreed at the outset of the hearing that I should make an order by consent to correct the name of the respondent to "Break".
12. The respondent raised two preliminary arguments in their Grounds of Resistance. They confirmed that neither argument was relied on today.

The Issues

13. The Response to the remaining claim is a simple one. The respondent says that their disciplinary and dismissal policy is a non-contractual document. Consequently, they say that they were not contractually obliged to follow it and could not have breached the claimant's contract of employment by failing to follow the procedure.
14. As to the issues for me to determine:
 - (a) Both parties agree that they entered into a contract of employment;
 - (b) There is a dispute as to whether it was a term of that contract that the respondent was contractually required to follow their disciplinary and dismissal policy;
 - (c) The respondent accepted that it did not follow the policy (i.e. they did not give warnings before dismissal);
 - (d) The question of remedy would need to be determined if the claim succeeded.

Evidence

15. I have taken into account the contents of a tribunal bundle which contains the documents produced by both parties.
16. I heard evidence from two witnesses - the claimant and Alex Lewczuk the Respondent's head of HR.
17. I had the benefit of seeing the evidence tested under cross-examination and the opportunity to put questions to the witnesses myself.

Facts

18. A tribunal need not make findings of fact on all matters put before it. It need only make the findings of fact that are necessary to determine the complaints before it.

19. In this respect, the facts are simple and non-contentious.
20. The respondent is a charity providing support to children and young people.
21. There is no dispute that the claimant was employed by the respondent as a Support Worker from 5th July 2023 until her employment was terminated by reason of dismissal on 13th January 2025. Furthermore, there is no dispute that the respondent summarily terminated the claimant's employment on this date and paid her one month in lieu of notice.
22. The parties entered into a statement of main terms and conditions of employment. The document was signed by both parties on 3rd July 2023 and records the express terms of the claimant's contract of employment. The document refers to the respondent's disciplinary and dismissal procedures and directs the reader to the fact that these can be found in the respondent's policies and procedures. The contract states in this regard:

"The main disciplinary and dismissal procedures of Break are as detailed in the Break policies and procedures".
23. The disciplinary and dismissal policy is with the respondent's other written policies and procedures. The policy is a standard type of disciplinary policy and procedure and accords with the applicable ACAS Code of Practice for disciplinary matters.
24. What is crucial in the context of this claim is that paragraph 1.4 of the policy expressly states that the policy is non contractual and may be changed from time to time. In particular it states:

"This policy does not form part of any employee's contract of employment and the terms may be amended by Break from time to time".
25. It is common ground that the contractual notice required to be given by respondent to terminate the claimant's employment was a period of one month.
26. On 31st December 2024, the respondent wrote to the claimant to invite her to a disciplinary meeting. The disciplinary allegations against her concerned the claimant completing medication and administration record charts for other workers and also recording allegedly false information.
27. At a meeting on 13th January 2025 the respondent concluded that the claimant was guilty of misconduct. They wrote to the claimant on the same date confirming that her employment was terminated with immediate effect and that she would be paid one month in lieu of notice.
28. The claimant accepts that she received the payment in lieu of notice of one month's pay.

Discussion/Conclusion

29. A complaint of wrongful dismissal is a complaint of breach of contract.

30. The tribunal's jurisdiction in breach of contract cases arises under the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994.
31. There is no dispute that the claim was presented in time. It is accepted the tribunal has jurisdiction to consider the complaint.
32. There is no dispute that the parties entered into a contract of employment. The terms of that contract are recorded in writing in the claimant's statement main terms and conditions of employment.
33. The claimant's case turns on the question of whether the respondent was contractually obliged to follow the procedures set out in their disciplinary and dismissal policy. I conclude that the respondent was not contractually obliged to follow such procedures. The applicable policy expressly confirms that it is a non-contractual policy (i.e. it does not have contractual standing). It follows that the respondent was not contractually bound to follow the procedure.
34. It is accepted that the respondent did not follow the procedure set out in the disciplinary and dismissal policy. No warnings were given before dismissal. However, for the reasons I have given, that is not a breach of contract and therefore the claim for breach of contract fails and should be dismissed.

Approved by **Employment Judge Mr. A. Spencer on 14th January 2026**

JUDGMENT SENT TO THE PARTIES
ON 4 February 2026

FOR THE TRIBUNAL OFFICE

Notes

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/