



EMPLOYMENT TRIBUNALS

Claimant: Mr Gary Mayo
Respondent: NHS South East London ICB
Heard at: London South Employment Tribunal (Croydon)
On: 5 and 6 November 2026
Case number: 6020221/2024
Before: Employment Judge M Da Costa (sitting alone)

ATTENDANCE AND REPRESENTATION:

Claimant: In person via video link, unrepresented
Respondent: In person, represented by Mr Williams of counsel

JUDGMENT

The judgment of the Tribunal is as follows:

Complaint of unfair constructive dismissal pursuant to section 95(1)(c) and 111(1) Employment Rights Act 1996 contrary to section 94 of that Act

1. The claimant's claim for constructive unfair dismissal is not well founded and is dismissed.
2. The claimant was not constructively dismissed within the meaning of the common law as codified in section 95(1)(c) of the Act.

3. This is because there was no breach by the respondent of any fundamental term of the contract (and thereby no entitlement for the claimant to resign in repudiation of the contract).
4. The respondent's desire to change the claimant's working pattern was founded on a legitimate business need and was the subject of extensive consultation between the respondent and the claimant. It was, at all times and over a period of some months, open to the claimant to take reasonable steps to resolve the impasse in negotiations that had arisen between the claimant and the respondent by making reasonable enquiries and efforts, which he was unwilling to do. The claimant's behaviour in resigning in response was therefore not reasonable.
5. Given that the claimant did not have the right to repudiate the contract for fundamental breach by the respondent, the question whether he affirmed the contract after breach by the respondent did not arise.
6. Given that the claimant was not constructively dismissed or otherwise dismissed at all, the question whether the respondent had a potentially fair reason for dismissal, and whether it acted fairly in treating such reason as a sufficient reason for dismissing the claimant within the meaning of section 98(4) of the Act, did not arise.

M Da Costa

**Employment Judge M Da Costa
18 January 2026**

Judgment sent to the parties on:
7 February 2026

For the Tribunal Office:

P Wing

Note

Reasons for the judgment were given orally at the hearing. Written reasons will not be provided unless a party asked for them at the hearing or a party makes a written request within 14 days of the sending of this written record of the decision.

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