



EMPLOYMENT TRIBUNALS

Claimant: Miss Kurdybelska

Respondent: Staffline Recruitment Limited

Heard at: Nottingham On: 8 January 2026

Before: Employment Judge New

Representation

Claimant: Litigant in person
(assisted by Polish interpreter, Ms Johnson)

Respondent: Mr Symons (solicitor)

RESERVED JUDGMENT

The complaint that the claimant was constructively unfairly dismissed is not well founded.

REASONS

Introduction

1. The Respondent, Staffline Recruitment Limited, is a large recruitment business who provide temporary workers to its clients. Until she resigned on 20 March 2025, the Claimant was employed by the Respondent as an Account Coordinator.
2. The Claimant accepts that she resigned, but she claims that this was forced to do so during a meeting on 20 March 2025 in the face of an ultimatum from the Respondent – either she resign on the spot or be dismissed for gross misconduct. She alleges that other comments were made to her by the Respondent all of which added to the coercion and manipulation which left her feeling backed into a corner. She therefore claims constructive unfair dismissal.
3. The Respondent contests the claim. It says that the Respondent had concerns about the Claimant's performance and conduct and that it was

planning to have a meeting with the Claimant to discuss those concerns. It accepts that in advance of that planned meeting, the Claimant's line manager had a conversation with the Claimant on 20 March 2025 to give her a heads up that a formal meeting to discuss concerns about her performance/conduct would be arranged for the following day. The Respondent denies that any ultimatum was given, or that she was offered the opportunity to resign. Instead, it says that the Claimant decided in that meeting to tender her voluntary resignation. It therefore resists the claim for constructive unfair dismissal.

The Hearing

4. I heard the claim on 8 January 2026.
5. The Claimant gave evidence on her own behalf. She was assisted by a Polish interpreter, Ms Johnson.
6. For the Respondent we heard from Jacob Wojtowicz, the Claimant's line manager, and Barbara Molczyk, who heard the Claimant's grievance.
7. The parties produced written witness statements in advance. I took time at the start of the hearing to read those statements and the documents in the bundle referred to in those statements. Each witness was then asked questions about the evidence contained in their statements.
8. I am satisfied that the Claimant was able to participate effectively in the hearing with the aid of the interpreter. The Claimant explained that she was suffering from difficulties with her mental health. She became tearful at various points of the hearing, particularly towards the conclusion of her evidence – she was offered breaks and an opportunity to compose herself but was able to participate effectively in the hearing.
9. The parties cooperated in producing a bundle of 232 pages. Any page references in this judgment are references to that bundle.
10. There was a preliminary issue in relation to the correct Respondent. The Claimant brought her claim against Staffline Group Plc. The Respondent says that the Claimant was employed by a subsidiary entity, Staffline Recruitment Limited. The Claimant agreed to the name of the Respondent being changed accordingly.

The Issues

11. At the start of the hearing, we spent some time clarifying the issues as set out below. After explaining the difference between a claim for ordinary and constructive unfair dismissal, the claimant confirmed she was not pursuing any argument that the respondent's conduct was an express dismissal by way of enforced resignation – only a claim for constructive unfair dismissal.
12. Although the issues in relation to remedy were agreed, it was agreed that there was insufficient time during the one-day hearing today to deal with

remedy and all matters in relation to remedy (including Polkey and ACAS compliance) would be dealt with at a separate remedy hearing if appropriate.

13. The issues were agreed as follows:

Constructive unfair dismissal

1. Was the claimant dismissed?
 - 1.1 Did the respondent do the following things in a meeting on 20 March 2025:
 - 1.1.1 summon the Claimant to an unplanned meeting without representation and give the Claimant a direct ultimatum: either resign on the spot, or be dismissed for gross misconduct;
 - 1.1.2 tell the Claimant that if she ever tried to assert her rights in the future, this meeting “never happened”;
 - 1.1.3 refuse the claimant’s request to be allowed to consult with anyone before deciding whether to resign or not
 - 1.1.4 tell the Claimant “we’ll find something on you anyway. We have the weapon. A dismissal for misconduct will make it hard for you to find a job”.
 - 1.1.5 Say to the Claimant “has anything like this ever happened to you before” therefore demonstrating that the Respondent knew the Claimant was unprepared, shocked and emotionally vulnerable
 - 1.1.6 Offer the Claimant a months salary in lieu of notice “as a goodwill gesture”.
 - 1.2 In respect of any or all of those acts/omissions did the respondent, without reasonable or proper cause, conduct itself in a manner that was calculated or likely to destroy or seriously undermine the implied term of mutual trust and confidence between the parties?
 - 1.3 Was that a sufficiently serious breach to constitute a fundamental breach of contract?
 - 1.4 Did the claimant resign in response to the breach? The Tribunal will need to decide whether the breach of contract was a reason for the claimant’s resignation.
 - 1.5 Did the claimant affirm the contract before resigning? The Tribunal will need to decide whether the claimant’s words or actions showed that they chose to keep the contract alive even after the breach.
2. If the claimant was dismissed, the Respondent accepts it was an unfair dismissal – it confirms that it does not argue that there was nevertheless a fair reason for dismissal.

Remedy for constructive unfair dismissal

3. What is the appropriate remedy if the claim succeeds?
 - 3.1 The Claimant confirms she does not seek re-engagement or reinstatement
 - 3.2 If there is a compensatory award, how much should it be? The Tribunal will decide:
 - 3.2.1 What financial losses has the dismissal caused the claimant?
 - 3.2.2 Has the claimant taken reasonable steps to replace their lost earnings, for example by looking for another job?
 - 3.2.3 If not, for what period of loss should the claimant be compensated?
 - 3.2.4 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?
 - 3.2.5 If so, should the claimant's compensation be reduced? By how much?
 - 3.2.6 Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?
 - 3.2.7 Did the respondent or the claimant unreasonably fail to comply with it?
 - 3.2.8 If so is it just and equitable to increase or decrease any award payable to the claimant? By what proportion, up to 25%?
 - 3.2.9 The Respondent confirmed that it does not argue contributory fault.
 - 3.2.10 Does the statutory cap apply?
 - 3.3 What basic award is payable to the claimant, if any?
 - 3.4 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?

Findings of Fact

Credibility of witnesses

1. This is a case where there is a stark dispute in fact about a conversation which took place between the Claimant and her manager on 20 March 2025 and the events immediately preceding that conversation.
2. I must decide therefore whether, on a balance of probabilities, I prefer the evidence of the Claimant or the Respondent's witnesses in relation to these key matters. In making that determination, I have had close regard to the documentary evidence and the witness evidence.
3. I had no concerns about the credibility of the Respondent's witnesses, who answered questions posed to them in a straightforward and thoughtful manner. I did note some uncertainty in Mr Wojtowicz's evidence in relation to the exact timing and manner of his communication with the Claimant after she had resigned, but I considered that was simply a reflection of his memory being incomplete and an incomplete documentary record to aid that memory, rather than any concern about the credibility of his evidence.
4. By contrast, I did have some concerns about the credibility of the Claimant's evidence. The Claimant clearly found the hearing understandably stressful and emotional, especially as she was representing herself. She also had the added difficulty of engaging through an interpreter. Even taking those factors into account, I felt that the Claimant's account of the events of 20 March verged on appearing scripted at times. She made repeated references to the six or so aspects of the conversation on 20 March 2025 that she found objectionable with an apparent inability or reticence to elaborate, contextualise or really bring to life how the conversation had developed on her account. It was also notable that by contrast to the purportedly very clear memory of the events on 20 March 2025, the Claimant contended that she had an almost complete absence of memory about the events preceding that meeting that provided obvious context to the conversation on 20 March. At times I felt that the Claimant's answers about those earlier matters were verging on evasive particularly when the Claimant said that she could not recall the various meetings where concerns had been raised with her about lack of preparedness for training etc, even when pointed to documentary evidence which clearly set out that context. These aspects of the Claimant's absence gave rise to concerns about the credibility of the Claimant's evidence generally. In a case where I must ultimately decide which version of events to believe, those concerns were highly relevant although not on their own determinative.

Background

5. The Respondent, Staffline Recruitment Limited, is a large recruitment business who provide temporary workers to its clients.
6. The Claimant was employed by the Respondent from 12 April 2021 as an Account Coordinator. At the relevant dates she had been deployed to ABP Food Group, one of the Respondent's clients.

7. The Claimant's line manager was Mr Wojtowicz, an Account Manager. Mr Wojtowicz had a desk in the same office as the Claimant. She also worked with Mr Golis, another Account Manager.
8. The Claimant and all of the relevant individuals at the Respondent are Polish and speak Polish on a day-to-day basis at work.
9. On 5 March 2025, one to one training had been arranged with the Claimant in relation to the recruitment process she was expected to follow as part of her role with the client. She had been sent guidance in advance and had been asked to prepare for the training. When the Claimant attended the meeting, it transpired that she had not read the materials, or not all of them. The Respondent's conclusion was that she was unprepared for the training session.
10. Mr Golis followed that meeting up with an email to the Claimant the same day which referred to the fact that the training would need to be finished up on the following Tuesday (11 March) because the Claimant had come to the meeting unprepared. The Claimant said in evidence that she could not remember this meeting. She even seemed to be denying that any such meeting had happened at all, even when pointed to the email that Mr Golis sent the same day. She also denied knowing that the Respondent was unhappy that she had not prepared for the training despite having complained specifically about that matter in her later formal complaint.
11. On a balance of probabilities, I prefer Mr Wojtowicz's evidence about that meeting on 5 March, as it is consistent with the e-mail record and because of my concerns above about the credibility of the Claimant's evidence.
12. On 12 March 2025, a further training session was scheduled for the Claimant in relation to manual handling and food safety. This was due to be delivered by People Plus. The Claimant admits that she did not attend that training at the scheduled time of 11:00. I accept her evidence that she made a mistake about the time of the training, thinking it was 12:00 instead of 11:00. The Respondent nevertheless had a concern about her timekeeping, and she received a 'letter of concern' as a result.
13. Because she had missed the training on 12 March, and it was urgent that she complete it, Mr Golis decided he could not wait for further group training to be arranged. Instead, he arranged a further session with the Claimant on 17 March. Mr Wojtowicz also attended.
14. The Respondent's position is that the Claimant clearly had not read the materials she had been sent in advance of this meeting on 17 March, was not remotely prepared for the meeting and was not able to complete basic tasks when she was asked to do so on her screen. Mr Golis was not a witness during the hearing, but he provides a detailed and descriptive account to Ms Molczyk during the grievance hearing, notes of that meeting are noted in the bundle. The Respondent's position is that she was moving her mouse around the screen in a chaotic way demonstrating that she did not know what she was doing.
15. Under cross examination the Claimant said she could not remember the training on 17 March, and she denied that there had been any occasion

where she had been unable to complete the basic tasks asked of her. Again, I prefer the Respondent's evidence as it is consistent with the paper trail, and I found the Claimant to be evasive in her evidence.

Meeting with HR on 19 March 2025

16. The Respondent had concerns about the Claimant's performance and conduct including in relation to the above matters. On 19 March 2025, Mr Wojtowicz and Mr Golis set up a meeting with Ms Bernard, Employee Relations Partner, to discuss concerns regarding the Claimant's performance. This is evidenced by written notes of the meeting that was circulated by email to the attendees afterwards.
17. The output of that meeting was that there would be a formal meeting with the Claimant planned to take place on 21 March 2025 at which concerns about her performance/conduct would be discussed with her. That was Mr Wojtowicz's evidence and it is consistent with the documentary record sent out by Ms Bernard on 19 March 2025.
18. The Respondent had four categories of concern as evidenced by the documentary record, which listed the following matters:
 - (i) The Claimant's failure to read guidance sent to her on 28 February 2025 ahead of a scheduled meeting on 5 March 2025;
 - (ii) Concerns about the Claimant's time management;
 - (iii) The Claimant's failure to attend a scheduled training session on 12 March 2025 from People Plus in regard to manual handling and food safety; and
 - (iv) The lack of understanding the Claimant had exhibited at a training session on 17 March 2025 when the Claimant was unable to complete basic tasks which she had been trained to complete.
19. The Claimant accepted in response to my questions that the Respondent did genuinely have concerns about her performance/conduct and that those concerns were not fabricated. She disputes however that these had ever been raised with her or that the concerns were serious enough to dismiss her.
20. I accept Mr Wojtowicz's evidence that there was no discussion at the meeting on 19 March 2025 with HR about whether the Claimant would likely be dismissed, only that there needed to be a formal process to discuss the concerns with her, after which a decision would be taken about the outcome. His account about there being no pre-determined outcome is also consistent with the one given by Mr Golis to Ms Molczyk during the grievance process. Similarly, I note that there are no references in the document detailing the output of the 19 March meeting to dismissal being a possible or likely outcome. Indeed, the final paragraph of that document refers to "additional refresher training will be provided as previously agreed with Gabriela on 26/3" pointing strongly away from dismissal being a pre-determined or even likely outcome to the process.

Conversation with Mr Wojtowicz on 20 March 2025

21. On 20 March 2025, a conversation took place between Mr Wojtowicz and the Claimant in Polish, in the office where they both ordinarily worked at desks in the same room. There was no-one else present at the meeting.
22. The accounts of the Claimant and Mr Wojtowicz are markedly different.
23. Mr Wojtowicz describes that he knew the Claimant would find the suggestion of a future formal meeting about her conduct/performance stressful, so he wanted to give her a 'heads up' in advance about the meeting. That aligns with the Claimant's evidence that she was not given any advance notice of the meeting. This was not the formal meeting to discuss the Claimant's performance/conduct. It was an informal conversation to alert the Claimant to the fact that a formal meeting was going to be arranged for the following day. I accept that this conversation came as a shock and a surprise to the Claimant.
24. The Claimant's account is that Mr Wojtowicz opened the conversation by asking whether she had ever been in a situation like this before, and then went on to threaten that, if she sought to assert her rights in the future, this meeting "never happened" — which she understood to mean that he would deny the conversation in order to conceal what had occurred. Mr Wojtowicz denies that any such comments were made. Although the Claimant repeatedly asserted that these remarks were made, she was unable to provide any meaningful elaboration as to what "situation" Mr Wojtowicz was allegedly referring to, particularly given that, on her own account, he had not at that stage referred to any forthcoming formal meeting. While I would not expect the Claimant to recall the conversation verbatim, her evidence was notably lacking in contextual detail. Instead, her account tended to revert to a limited number of core allegations, which she repeated without further development. Accordingly, I prefer the evidence of Mr Wojtowicz and conclude that neither of these alleged remarks were made to the Claimant.
25. It is common ground that, at some point during the conversation, Mr Wojtowicz told the Claimant that there was to be a formal meeting the following day at which concerns about her work were to be discussed. I infer from Mr Wojtowicz's account that he referred broadly to the nature of the concerns and the fact she already had a letter of concern on her record. I find that it was likely to have been implicit from Mr Wojtowicz's comments that there were serious concerns about a pattern of poor performance/conduct.
26. The Claimant's version of events is that she was given an ultimatum. She says she was told by Mr Wojtowicz that if she did not resign that day (here and now), there was a 99.9% chance she would be dismissed for gross misconduct at the meeting tomorrow. Her evidence is that Mr Wojtowicz said that it would be better for her to resign because if she was dismissed, she would have difficulty finding another job. Her evidence is that she asked for more time to think it over, but that Mr Wojtowicz told her the decision (about whether to resign) must be made immediately.

27. Mr Wojtowicz firmly denies that there was any such ultimatum or any discussion or mention by him of the Claimant resigning, or that she would be dismissed for gross misconduct. He denies that any mention was made by him of the possibility of the Claimant resigning. He denies that any mention was made of the Claimant being dismissed for gross misconduct.
28. The Claimant says that she was further intimidated by Mr Wojtowicz saying “We'll find something on you anyway. We have the weapon. A dismissal for misconduct will make it hard for you to find a job.” Again, Mr Mr Wojtowicz denies making any such comment.
29. On a balance of probabilities, I prefer Mr Wojtowicz’s evidence that he did not give the Claimant an ultimatum, or refer to a 99.9% prospect that she would be dismissed at a formal meeting tomorrow if she did not resign immediately, or say to the Claimant ‘we’ll find something on you anyway – we have the weapon – a dismissal for misconduct will make it hard for you to find a job’. I make those findings for a number of reasons:
- (i) There is clear evidence that the Respondent had genuine concerns about the Claimant’s conduct/performance. The Respondent had already gone to a good deal of trouble to take HR advice, to set down in writing the precise nature of the concerns and had a plan in place to meet formally with the Claimant to discuss those concerns. I have found that it made that plan with an open mind about the potential outcomes of that process; specifically referencing in the documentary evidence the possibility of future training. Dismissal was not a foregone conclusion, nor even a likely outcome of the meeting.
 - (ii) That context makes it inherently unlikely that Mr Wojtowicz would make an ultimatum in the manner alleged, and particularly that he would say dismissal was a near definite certainty. I consider it much more likely that Mr Wojtowicz was simply trying to warn the Claimant about the prospect of a formal meeting.
 - (iii) Faced with the prospect of a formal meeting at which her performance/conduct would be discussed, the Claimant would naturally be concerned about such unwelcome scrutiny and an uncertain outcome to that process. Although the Claimant firmly denied it was her motivation, a voluntary resignation to avoid an unwelcome performance management or disciplinary consequence would be entirely consistent with the context.
 - (iv) The Claimant’s resignation letter and her email to the Respondent the day following her resignation makes no reference at all to the circumstances of her resignation being under duress or intimidation (see further below). Even considering the emotional stress of the situation as described by the Claimant, I find that a notable omission on the Claimant’s account of events. I struggle to accept the Claimant’s emotional distress as sufficient to explain the complete absence of comment about something so very significant as feeling coerced, especially as she was capable of writing an email the following day requesting clarification about her notice period.

- (v) It was not until 25 March, 5 days later, when she first alleged her resignation was under duress. Whilst the Claimant refers to her distress in the moment and later realisation about the unfairness as the explanation for the delay, I find the more likely explanation lies in the unusual question she asked of Ms Molczyk during the grievance process. The Claimant requested of Ms Molczyk that her reason for leaving be changed to redundancy rather than resignation so that she could claim benefits. I find this to be a revealing request. It seems very likely to me that the Claimant discovered after her voluntary resignation that she was unable to claim benefits having resigned voluntarily and, in understandable financial distress, retrospectively sought to recharacterize the circumstances of the termination of her employment either as redundancy or an enforced resignation.
 - (vi) I also take into account my concerns about the credibility of the Claimant's evidence generally as set out above and an apparent fixation by the Claimant in her evidence on the six or so aspects of the conversation on 20 March that she complained about, with an apparent inability to elaborate or contextualise any further about the conversation.
30. The Claimant says that during this conversation on 20 March 2025, Mr Wojtowicz offered her one month's salary, as a 'goodwill payment' to incentivize her to resign. She says that Mr Wojtowicz would not have had authority to make that offer and hence it must have been pre-approved by his superiors and therefore the whole proposal pre-planned. Mr Wojtowicz denies that he made any reference at all to notice pay during the meeting on 20 March 2025, and that it was not until the Claimant telephoned him some days later to ask about her notice pay that he later sought to clarify the position with Mr Ramdan, Regional Account Manager.
31. Again, on the issue of the notice pay, I prefer the evidence of Mr Wojtowicz. I conclude that Mr Wojtowicz made no reference to notice pay in the meeting on 20 March 2025 and only confirmed that notice pay would be payable when it was queried by the Claimant after her resignation. I make that finding because:
- (i) The Claimant's resignation letter states that she is resigning with immediate effect and makes no reference to notice pay. If Mr Wojtowicz had promised the Claimant notice pay, I consider it likely that the Claimant would have referenced that understanding in her resignation.
 - (ii) The Claimant wrote to the Respondent the day following her resignation to ask about notice pay. It is difficult to understand why she would do so if notice pay had already been promised to her by Mr Wojtowicz. The Claimant says that she wrote this email to clarify the position in relation to her entitlement to notice pay, fearing that Mr Wojtowicz had promised her notice pay on 20 March without having sought authority from management. Yet that conceivably credible explanation contradicted her earlier evidence that Mr Wojtowicz would not have made the promise about notice pay on 20 March without it being pre-authorised. The Claimant's contradictory arguments on this point were confused and unconvincing.

- (iii) I consider the more likely explanation for asking about notice pay on 20 March 2025 was the Claimant's realisation that by resigning with immediate effect she had lost any entitlement to notice pay.
- (iv) Mr Golis's evidence to the grievance investigation that he was not asked by Mr Wojtowicz about notice pay until after dismissal is consistent with Mr Wojtowicz's evidence, a position which Mr Wojtowicz's sustained under questioning.

Verbal resignation

- 32. It is common ground that during the conversation with Mr Wojtowicz on 20 March 2026, the Claimant told Mr Wojtowicz that she wanted to resign with immediate effect.
- 33. Mr Wojtowicz denies that he put pressure on the Claimant to resign, or that he refused any request by the Claimant for more time to consider the position. To the contrary, his evidence is that he asked the Claimant three or four times if her decision was final and asked if she wanted more time. In light of my findings above, I find that Mr Wojtowicz's account is the more credible on that point too.

Written Resignation

- 34. The Claimant asked Mr Wojtowicz if he could help her write out the resignation, but he refused, explaining that it needed to be written by her. The Claimant sat at her desk and typed out and signed a letter of resignation, dated 20 March 2025, which stated as follows:

"Dear Jacob.

Please accept this letter as notice of my resignation from the position of Account Coordinator at Staffline with immediate effect. I hope that I can rely on you for a positive reference in future.

Yours sincerely..."

- 35. The Claimant left the building shortly thereafter on 20 March 2025.

Claimant's email of 21 March 2025

- 36. The following day, 21 March 2025, the Claimant sent an email to the generic 'salaries@staffline.co.uk' asking:

"Good morning,

Yesterday I finished my job and I would like to ask for details of my notice of termination. I am looking forward to hearing from you. Could you also send it to me for sent by post.

Regards..."

- 37. Mr Wojtowicz did not see that email until it was forwarded to him by the People team on 24 March 2025. I was shown no written reply to that email.

38. On a date which is unclear, but likely to be prior to 24 March 2025, Mr Wojtowicz received a telephone call from the Claimant asking whether she would receive her notice pay, presumably because she had not received any response to her email of 21 March. Mr Wojtowicz's evidence is that this is the first time there had been any reference to the possibility of notice pay, which (after checking and obtaining approval from Mr Ramdan) he says he subsequently confirmed to the Claimant would be payable.

Formal Grievance

39. The Claimant raised a formal complaint on 25 March 2025 by email addressed to the People Team.
40. The Claimant alleged that she had been unfairly treated by her manager who had pressured her into resigning under duress. In relation to the conversation on 20 March 2025, she said as follows:
- "...the most concerning event was a private conversation that took place on March 20th behind closed doors in office. He informed me that I would soon receive an invitation to a one-to-one meeting on March 21st, which would turn into a disciplinary action. He told me that I had two options: either I resign voluntarily or I would be dismissed for disciplinary reasons. He stated that they had "a lot of evidence against me" and emphasized that a disciplinary dismissal would harm my future career in recruitment. I was given no time to reflect on this decision, and the pressure of the situation caused me extreme distress"*
41. The Respondent's People Team forwarded the complaint to Ms Bernard and Mr Wojtowicz. Mr Wojtowicz provided a statement setting out his version of what had happened on 20 March 2025.
42. Ms Molczyk, Area Account Manager, was appointed to investigate the Claimant's grievance. The Claimant attended a grievance meeting with Ms Molczyk on 2 April 2025 at which she gave an account broadly consistent with the one presented in evidence at the hearing. Ms Molczyk interviewed Mr Golis, Mr Wojtowicz and Mr Ramadan on 24 April 2025. I had the benefit of reading the notes of those investigation meetings.
43. The Claimant's grievance was not upheld. Details of the reasons were sent to the Claimant in a letter dated 6 May 2025. The Claimant appealed the outcome, but an appeal hearing did not take place.

The Relevant Law

44. Section 95(1)(c) of the Employment Rights Act 1996 ("ERA"), provides
- "(1) For the purposes of this Part an employee is dismissed by his employer if –
- (a) the contract under which he is employed is terminated by the employer (whether with or without notice),
 - (b) ...
 - (c) the employee terminates the contract under which he is employed (with or without notice) in circumstances in which he is entitled to terminate it without notice by reason of the employer's conduct."

45. In a claim for constructive unfair dismissal, the burden is on the Claimant to show that she was dismissed.
46. In *Western Excavating (ECC) Limited v Sharp* [1978] Q.B.761, Lord Denning stated:
- “If the employer is guilty of conduct which is a significant breach going to the root of the contract of employment, or which shows that the employer no longer intends to be bound by one or more of the essential terms of the contract, then the employee is entitled to treat himself as discharged from any further performance. If he does so, then he terminates the contract by reason of the employer’s conduct. He is constructively dismissed.”*
47. The most common repudiatory (i.e. fundamental) breach that is relied upon is the duty of trust and confidence which is implied into every contract of employment by operation of law. In *Malik and Anr v Bank of Credit & Commerce International SA (in compulsory liquidation)* [1998] AC20, the duty of mutual trust and confidence was defined:
- “The employer must not, without reasonable and proper cause, conduct itself in a manner calculated and likely to destroy or seriously damage the relationship of trust and confidence between employer and employee.”*
48. It has since been clarified that the duty on the employer is to, “...not, without reasonable and proper cause, conduct itself in a manner calculated or likely to destroy or seriously damage the relationship of trust and confidence between employer and employee”.
49. Once it is established that the employer has committed a repudiatory breach of contract, the employee must go on to show that he or she accepted the repudiation. This means the employee must terminate the contract by resigning, either with or without notice and the employee must establish that the resignation was caused by the breach of contract. It is for the tribunal to determine, as a matter of fact, whether the employee resigned in response to the employer’s breach rather than for some other reason.

Discussion & Conclusions

50. Having set out the relevant law, I must now apply the law to the facts as I have found them.
51. I am grateful to the helpful submissions made by both parties, summarising their respective positions.
52. The Claimant’s case is that the meeting with Mr Wojtowicz took place without advanced notice, without any explanation about its purpose and in the absence of HR. She says that no written allegations or concerns were presented to her and that it was a confrontational, one-sided and intimidatory conversation. She argues that the manner in which the meeting was conducted did not meet the standards of a fair, transparent and procedurally appropriate process towards an employee, and that she

felt under duress to resign, having been told that the almost certain outcome of the meeting the following day would be her dismissal. She describes that this approach deprived her of the opportunity to respond or defend herself in a fair process and therefore fundamentally breached the relationship of trust in the employment relationship. She argues that the fact the months salary was offered during this conversation points to it being a pre-planned proposal that she resign. She says that she had no reason to resign from her role otherwise, and that the situation has left her unemployed with no income and with two children to care for, with a serious impact on her mental health.

53. In summary, the Respondent invites me to find that Mr Wojtowicz was a credible witness whose account should be believed and hence that none of the comments alleged to be repudiatory breaches of contract took place. It points to a list of reasons why the Claimant's account is not credible and should not be preferred. Alternatively, it points to the possibility that the Claimant may have misunderstood the message Mr Wojtowicz was seeking to convey, a possibility it suggests is potentially more likely as a result of her emotional fragility at the time. Finally, the Respondent sought to argue that even if I were to prefer the evidence of the Claimant, Mr Wojtowicz's conduct was insufficient to amount to a breach of the implied term of mutual trust and confidence because the Claimant would know that she could have raised concerns to senior managers or the people team about Mr Wojtowicz.
54. This matter turns centrally on my findings of fact in relation to the events of 20 March 2025. I refer to my findings of fact above in relation to the six matters which are alleged to constitute repudiatory breaches of the implied term of mutual trust and confidence.
55. What the Claimant seeks to characterise as an unplanned meeting without representation or witnesses, was in fact an informal conversation between employee and line manager for the purposes of giving the Claimant a 'heads up' or advanced warning about the fact she would shortly be invited to a formal meeting about her conduct. If that formal meeting had gone ahead, she would have reasonably expected to have received notification in advance about the nature of the concerns, to have had the right to be accompanied and to have had opportunity to defend herself formally in relation to the allegations. None of those procedural expectations apply to an informal meeting of this nature. Notifying her informally that a formal meeting was to follow does not in my judgment constitute conduct which was calculated or likely to destroy or seriously damage the relationship of trust and confidence. To the contrary, I accept Mr Wojtowicz's evidence that he was mindful of the Claimant's emotional fragility and wanted to give her advanced warning of something likely to upset her.
56. For the detailed reasons set out in my findings of fact, I have concluded that Mr Wojtowicz did not (a) give the Claimant a direct ultimatum that she either resign on the spot or be dismissed for gross misconduct, (b) tell the Claimant that if she ever tried to assert her rights in the future, this meeting 'never happened', (c) refuse the Claimant's request to be allowed to consult with anyone before deciding whether to resign or not, (d) tell the Claimant we'll find something on you anyway – we have the weapon – a dismissal for misconduct will make it hard for you to find a job', (e) say to

the Claimant 'has anything like this ever happened to you before' or (f) offer the Claimant a months salary in lieu of notice as a goodwill gesture.

57. Accordingly, I have rejected all the facts forming the basis of the Claimant's alleged repudiatory breaches of contract. Accordingly, I conclude that the Respondent did not conduct itself in a manner calculated and likely to destroy or seriously damage the relationship of trust and confidence between employer and employee.
58. My conclusion is that the Claimant resigned voluntarily after being warned by her manager that a formal process (performance and/or conduct) was shortly to be set in motion. Like many employees might do in that situation, the Claimant chose voluntarily to resign with immediate effect to avoid the unwelcome formal scrutiny of her performance/conduct. I conclude that she later came to regret that decision, having understood that she was not eligible for state benefits in circumstances where she had voluntarily resigned her employment. In financial distress, she sought to raise an unfounded grievance and claim that her resignation was the result of intimidation and duress, or alternative to seek to persuade the Respondent to change the reason for leaving to redundancy.
59. Accordingly, the complaint that the Claimant was constructively unfairly dismissed is not well founded and fails.

Approved by:

Employment Judge New

28 January 2026

Notes

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Recording and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. 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:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>