



EMPLOYMENT TRIBUNALS

Claimant: Mr L Harris

Respondent: Moneda Capital PLC

JUDGMENT

The complaint of unfair dismissal is struck out.

REASONS

1. The Tribunal wrote to the claimant on 16 December 2025 warning them that the Tribunal was considering striking out part of the claim: the complaint of unfair dismissal. This was because it appeared to the Tribunal, applying Rule 38 of the Employment Tribunal Procedure Rules 2024, that, in relation to that part, the claim had no reasonable prospect of success because the claimant did not have two years' continuous service.
2. The letter gave the claimant an opportunity to explain why that part of the claim should not be struck out, or to request a hearing at which to do so. The claimant has replied in an email dated 18 December 2025 explaining (in summary) that the basis of his complaint is one of constructive dismissal and that he has raised a whistleblowing case in April 2025. He did not request a hearing.
3. Having considered the claimant's response in full, I am satisfied that the grounds for striking out that part of the claim under Rule 38 apply, and that it would be in accordance with the overriding objective in Rule 3 to strike out that part of the claim. This is because:
 - a. Simply because a claim is one for constructive dismissal does not avoid the requirement for two years' service in section 108 of the Employment Rights Act 1996 (**ERA**).
 - b. The two years' service requirement is not relevant if the claim is one under section 103A ERA. However, such a claim requires that the reason (or, if more than one, the principal reason) for the dismissal is that the employee made a protected disclosure. On the claimant's own account, his constructive dismissal occurred in March 2025, and his

protected disclosure was made when he raised his whistleblowing case in April 2025. The protected disclosure cannot therefore have been the reason or principal reason for dismissal.

4. That part of the claim is therefore struck out. The rest of the claim is not affected by this judgment; I have made separate directions regarding those matters.

Approved by:

Employment Judge Abbott

Date: 20th March 2026

Judgment sent to parties on:
27th March 2026

For the Tribunal Office