



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms L Naim  
**Respondent:** Kash PH Limited  
**Heard at:** East London Hearing Centre  
**On:** 21 January 2026  
**Before:** District Judge A Ross acting as an Employment Judge

## Representation

For the Claimant: In person, represented by her son, Mr T Naim  
For the Respondent: Mr B Acharya, Area Manager, supported by Mr J Rana,  
McKenzie Friend

**JUDGMENT** having been sent to the parties on 11 February 2026 and reasons having been requested in accordance with Rule 62(3) of the Rules of Procedure 2013.

## REASONS

1. The Claimant was employed as a back-of-house assistant by the Respondent at their branch at 36 London Road Romford. She was employed from the 21 November 2013 to the 9 March 2025.
2. After a period of early conciliation, from 1 May 2025 to 12 June 2025, the Claimant presented a claim form on the 9 July 2025. The complaints were: that the Claimant had been unfairly dismissed; that she was entitled to notice pay; that she was given no reasons for dismissal. In the alternative, she sought a redundancy payment if found to have been made redundant.

3. In response, the Respondent filed an ET3 response. The Claimant's case is that she was dismissed orally at a meeting with her branch manager. The Response, at part three, which is page 20 of the bundle, says as follows:

*"It is denied that the Claimant was dismissed from her job unfairly, or otherwise. The Claimant orally informed the branch manager that she had found another job and did not wish to continue working for the Respondents. She was informed to put this in writing, but she did not do so."*

### **ISSUES**

4. The issues that arise for determination at this hearing are as follows:
  - 4.1. Was the Claimant dismissed, or did she resign? The Respondent's case is that she resigned. The Claimant's case is that she was dismissed orally.
  - 4.2. If she was dismissed, what was the reason or principal reason for dismissal? The burden is on the Respondent to show the reason for dismissal.
  - 4.3. If the Claimant was dismissed, and if a reason for dismissal is shown, was it a potentially fair reason? For example, was it for the reason of redundancy?
  - 4.4. In this case, because dismissal was denied, it follows that if I find that the Claimant was dismissed, the Respondent would need to show a reason for dismissal to have any prospect of success. The Respondent has not alleged or asserted any reason for dismissal. Therefore, if no reason or fair reason is proved by the Respondent, there is no need for me to go on to consider the issue of fairness in section 98(4) Employment Rights Act 1996, if I conclude that the Claimant has been dismissed.
  - 4.5. Whether the Claimant is entitled to a redundancy payment, if I find that she was made redundant.
  - 4.6. Whether the Claimant is entitled to notice pay under Section 86 Employment Rights Act.
  - 4.7. If dismissed, there is a question of whether the Claimant received written reasons for dismissal. If not, she is entitled to an award under Section 92 Employment Rights Act.

- 4.8. I raised the question that, if the Claimant succeeded and if it was shown that there was no written statement of particulars of employment, the tribunal was required to increase the award by two weeks' pay and may increase it by up to four weeks' pay: see section 38 Employment Act 2002.

## **EVIDENCE**

5. Turning to the evidence, it is clear from the file that the Respondent was sent the case management order by the Tribunal.
6. It is fair to say that the Respondent had not complied with the case management order at all, save that, today, a witness statement was filed on behalf of the Respondent by Binet Acharia, a regional manager, whose region included Romford. At first, the Respondent blamed the Claimant for the late provision of their witness statement. However, I was satisfied, both from what I could see on file and from what I was told, that the Claimant had complied with the orders of the Tribunal. Documents and the witness statement had been sent by recorded delivery to the Respondent. Also, the Claimant's witness statement had been sent to the Tribunal, as had a bundle.
7. In any event, the Claimant did not object to the Respondent, relying on the witness statement. I excluded part of the witness statement (being paragraph 5 and the first sentence of paragraph 6) because that referred to conversations with the ACAS Officer. I explained to the Respondent that it could not now rely on documents which had not been disclosed. Although Mr. Acharya referred to documents that he could or might provide in the future, none were filed or provided at this hearing. I explained to the Respondent that the final hearing was taking place now, and there was no application to adjourn.

## **FINDINGS OF FACT**

8. The Claimant had prepared a detailed witness statement. She was able to give direct evidence of the events that she referred to. She knew the branch manager as "Santos". His correct name is Mr. Dhavle as explained by Mr. Acharya. I heard no evidence from Mr. Dhavle, and there were no records, nor any witness statement provided by him. Mr. Acharya gave evidence about what he alleged he was told by Mr. Dhavle.
9. The central conflict of fact is whether the Claimant resigned or was dismissed at a meeting with Mr Dhavle at the Romford branch.

10. The Claimant said that she was dismissed at a meeting by Mr. Dhavle on the 23 February 2025, at the start of her shift. Mr. Acharya said that she resigned at a meeting on 2 March 2025.
11. I heard oral evidence from the Claimant and she was cross examined.
12. I found that the Claimant was not employed on a zero hours contract. There was no evidence that such a contract was agreed; and there was no written statement of terms provided to the Claimant by the employer.
13. I accepted the Claimant's evidence on this issue. I found that she was a permanent employee who was placed on a rota each week, which contained her shifts for that week.
14. Mr. Acharya's written evidence that the Claimant was on a zero hours contract was not in the ET3 Response. There was no documentary evidence to support his evidence on this point. On the contrary, the February 2025 pay slip, at page 31, showed that the Claimant was paid overtime, evidence that was neither likely or possible, if she was on a zero hours contract.
15. Mr. Acharya's explanation attempted to create a diversion by reference to a payroll system, but, with respect, it was hard to follow, and did not explain this simple fact, that overtime is generally inconsistent with the existence of a zero hours contract.
16. Mr. Acharya did not cross-examine the Claimant by alleging that the meeting, or a meeting, took place on 2 March 2025 as he had alleged. He did not put to her that she resigned at that meeting, nor did he put to her the words allegedly used by her at that meeting. Mr. Acharya's main question put to her was that she did not contact him or any other manager and why was that. The Claimant said that she did not complain internally, and how could she, because she had been given two weeks' notice of dismissal.
17. I found that the Claimant believed that there was no point complaining, because she had been dismissed already. I found that was a reasonable and understandable response in her position.
18. I preferred the Claimant's direct evidence about what happened, which, as I have said, was basically unchallenged. I found as follows.
19. The Claimant did not resign, and she had no intention of resigning. Mr. Dhavle dismissed her suddenly and without warning at a meeting on 23 February 2025, shortly after her shift had begun. The Claimant was told by him that the company had said that she had to leave the job. No reasons for that decision were explained to her,

and no written reasons were ever provided, despite the fact that she requested confirmation about her dismissal.

20. The Claimant's last day at work was at the end of the two weeks' notice that she was given, namely 9 March 2025. The Claimant stated, and I found as a fact, that her role was filled by a close friend of Mr. Dhavle.
21. I found that the Respondent's case lacked credibility, and that Mr. Acharya was unreliable as a witness for several reasons:
  - 21.1. The Respondent's account in the ET3 response is very clear. The Respondent alleged that the Claimant did not want to work there anymore and had another job. However, there was no evidence led by the Respondent about the alleged new job at all. The firm statement in the ET3 that the Claimant had a new job was not supported by Mr. Acharya.
  - 21.2. The Respondent's account shifted. Mr. Acharya said orally that he had "heard rumours" that the Claimant had another job, but he did not even put that in his witness statement. This was inconsistent if the Respondent really had understood that the Claimant had a new job. Mr. Acharya gave no explanation for the source of the rumours nor why they might be true.
  - 21.3. There was no documentary evidence at all to support the Respondent's case. For example, Mr. Acharya claimed he knew by mid-March that the Claimant was no longer working for the company, and that Human Resources knew this by the end of March 2025. It was very odd, if the Claimant had not provided any confirmation of resignation, that the Respondent did not try to contact her at all, if as alleged she had resigned. Mr. Acharya only tried to contact the Claimant after it was clear that she was pursuing a claim in the Employment Tribunal and after he was contacted by ACAS. I found that it was reasonable and understandable that the Claimant formed the view that it was too late at that stage to discuss matters because, after all, the Respondent had dismissed her and had had plenty of time to reach out to contact her before then.

## **CONCLUSIONS**

22. The Claimant was not provided with a statement of terms, or any written contract of employment. The Respondent was in breach of the duty under section 1(1) Employment Rights Act 1996; at the time this Claim was issued.
23. I concluded that the Claimant was dismissed; she did not resign.

24. There was no question of redundancy, both because of my findings that a friend of the manager took her role and also that the Respondent denied that the Claimant was made redundant. The Respondent has failed to show any reason for dismissal.
25. In respect of the claim for notice pay, the Claimant was dismissed with only two weeks' notice. There is no evidence that there was any contractual notice period, but the Claimant was entitled to notice as a statutory right under Section 86 Employment Rights Act. Under that provision, she is entitled to one week's notice for each completed year of service, up to a maximum of 12 weeks.
26. Finally, the Claimant was not provided with written reasons for her dismissal contrary to the requirement in section 93 Employment Rights Act.
27. We now proceed to the question of remedy, and compensation is sought by the Claimant.

## **REMEDY**

28. *[NB. There was discussion of the compensation claimed. Mr. Acharya admitted that the Claimant's gross weekly loss of earnings, over the 12 weeks prior to dismissal, were as claimed, £336.34.]*
29. *The Tribunal invited arguments from the Respondent about whether compensation claimed for loss of earnings was disputed or admitted and, from both parties, in respect of how much should be awarded under section 38 Employment Act 2002 in respect of the Respondent not providing a statement of terms of employment. The Respondent disputed the claim for loss of earnings, but did not seek to cross-examine the Claimant. The Respondent was given the opportunity to make submissions, in respect of the first issue, but left it up to the Judge to decide. In respect of the amount to award under section 38 EA 2002, the Respondent stated that 2 weeks' pay should be awarded, because the company was not profitable. The parties agreed that the Claimant's net pay was £309.88 per week. The Tribunal adjourned until 1430*
30. *At 1430, the Tribunal clarified whether the Claimant pursued loss of statutory rights and pension contributions. The Claimant pursued an award for loss of statutory rights and the Respondent did not oppose or make submissions, stating that it was up to the Judge. The Claimant pursued compensation for loss of pension contributions and the Respondent did not oppose this. The Judge calculated the loss of pension contributions to be £5.58 per week, which was explained and it was not challenged by either party.]*

31. The parties agreed the following matters:
  - 31.1 The Claimant's gross weekly pay was as set out in the Schedule of loss;
  - 31.2 The net pay (calculated to be £309.88 per week);
  - 31.3 The Respondent did not wish to challenge the loss of earnings claim of 40 weeks;

The Respondent did not seek to cross-examine the Claimant.

Basic Award

32. Having made a declaration that the Claimant was unfairly dismissed, she is entitled to a Basic award. Under the unfair dismissal legislation, a worker who is unfairly dismissed is given the equivalent of a redundancy payment as well as a compensatory award.
33. The Basic award is the sum of her gross weekly pay of £336.34, multiplied by 1.5 times multiplied by the number of complete years of service. That is 11 years multiplied by 1.5, multiplied by £336.34. That totals £5549.61.

Compensatory Award

Prescribed period

34. The Claimant sought the compensation referred to in the statement of loss.
  - a. *Loss of earnings & pension contributions up to the Claimant's state pension age, 15 December 2025*
35. The Claimant's net pay was £309.88 per week. The loss of earnings in the prescribed period was therefore: £309.88 x 40 weeks = £12,395.20.
36. The loss of pension contributions for the same period was £223.20.
37. The prescribed amount was therefore £12,618.40.

Non-prescribed period

- b. *Loss of statutory rights.*
38. The Claimant had lost her statutory rights, and she was unlikely to regain them because of her plan to retire at aged 65. She had only been planning to work for

9 months further. Therefore, I was mindful not to overcompensate the Claimant under this head.

39. However, I decided that an award of approximately one week of gross pay accurately reflected her loss of statutory rights. I decided to award £300.

*c. Award under section 92 ERA 1996*

40. An employee is entitled to a written statement of reasons for dismissal from his or her employer where the dismissal arises from either:

- a) the employer giving notice;
- b) the employer terminating without notice; or
- c) if a limited term contract terminates by virtue of its limiting event (s92(1) ERA 1996).

41. Generally, the employee must have made a request for the written reasons: s92(2).

42. An employee may make a complaint to a tribunal that his or her employer has unreasonably failed to provide the statement or that the particulars of the statement given are inadequate or untrue (s93(1)).

43. Where a tribunal finds such a complaint well-founded, it may make a declaration as to what it finds the employer's reasons were for dismissing the employee and will make an award of 2 weeks' gross pay. (A week's pay as defined in ss220 to 229 ERA 1996 applies).

44. I concluded that the Respondent had failed to provide written reasons for, or even confirmation of, the dismissal, despite the Claimant's request. The failure was unreasonable; no evidence or argument was advanced as to why it might be reasonable. I awarded two weeks' gross pay, being £672.68.

45. The declaration I would make is that the reason for dismissal was that the branch manager decided to employ a friend known to him.

*d. Failure to provide statement of terms: s.38 Employment Act 2002*

46. As I explained to the parties, there is an additional right to a remedy from a tribunal where a claim has been brought within the list of jurisdictions in Sch 5 to EA 2002.

47. Where under such a claim the tribunal finds for the employee and where when the proceedings were brought the employer was in breach of the duty to give written

particulars, the tribunal will make an award of 2 weeks' pay unless it would be unjust and inequitable to do so, and may if it considers it just and equitable in all the circumstances make an award of 4 weeks' pay: see ss38(1) to (5) EA 2002. For such an award to be made, the employer must be in breach of the obligation at the time the proceedings have begun. The week's pay should be calculated gross.

48. I reached the following decision.

49. It was just and equitable to award 4 weeks' pay in this case because:

49.1. In this case, the employer was of medium size, with over 120 employees in the UK. It should have been in the position to comply with the law, irrespective of its profitability. After all, a written statement of terms was a simple requirement.

49.2. The Respondent failed to produce evidence that any statement of terms had been provided to the Claimant. The Respondent produced no documentary evidence nor any written record at all. Mr. Acharya accepted in his evidence that no evidence of a written contract existed.

49.3. The basic position is that it is essential for the employee to know the terms of their contract, in order to know what rights they have in their contract of employment and, of course, what consequences may flow from dismissal or from some event happening at work.

49.4. Compliance with the statutory requirement to provide a written statement of terms and conditions is essential to aid dispute resolution, such as arose in this case over whether the contract was a zero hours contract, which I found was not the case.

50. Therefore, under section 38 EA 2002, I awarded 4 weeks' gross pay, amounting to £1345.36.

*Other matters*

51. The holiday pay received is not deducted from the compensation due to the Claimant. Under the Working Time Regulations 1998, when employment ends, outstanding holiday pay must be paid to the worker.

52. Next, the Claimant cannot get double recovery. It is not possible to claim notice pay and loss of earnings for the same period, because they cancel each other out. One is damages, one is part of a statutory award, but an employee cannot get double

recovery. However, a declaration of breach of contract can be made. I decided to make this declaration.

53. Where Employment Support Allowance and Universal Credit due to loss of employment has been paid, as in this case, the Tribunal does not deduct the sums paid from the compensatory award. The sum is recouped by the Secretary of State from the prescribed element of the monetary award, pursuant to The Employment Protection (Recoupment of Benefits) Regulations 1996.

**Approved by:  
District Judge A Ross acting as an  
Employment Judge  
Dated: 24 April 2026**