



EMPLOYMENT TRIBUNALS

Claimant: Mr Chris Kinally

Respondent: Cat 5 Communication Limited

Heard at: Cambridge via video

On: 22 January 2026

Before: Employment Judge Modupe Smith

REPRESENTATION:

Claimant: In person

Respondent: Mr C Mills (representative)

JUDGMENT having been sent to the parties on 17 February 2026 and written reasons having been requested in accordance with Rule 60(4) of the Employment Tribunals Rules of Procedure 2024, the following reasons are provided:

REASONS

Introduction

1. This is a claim for redundancy payment, holiday pay and notice pay arising out of the termination of the claimant's employment. The respondent is a telecommunications company. The claimant was employed by the respondent as a technical manager from 15 November 2011 and his employment ended on 23 January 2025. The claimant contacted early conciliation via ACAS on 2 April 2025 and the ACAS

Certificate was issued on 17 April 2025. On 20 April 2025 the claimant presented claims for redundancy payment, holiday pay and notice pay to the Tribunal.

Law

2. Section 163 Employment Rights Act 1996 provides:

- (1) Any question arising under this Part as to—
 - (a) the right of an employee to a redundancy payment, or
 - (b) the amount of a redundancy payment,shall be referred to and determined by an employment tribunal.
- (2) For the purposes of any such reference, an employee who has been dismissed by his employer shall, unless the contrary is proved, be presumed to have been so dismissed by reason of redundancy.
- (3) Any question whether an employee will become entitled to a redundancy payment if he is not dismissed by his employer and he terminates his contract of employment as mentioned in section 150(1) shall for the purposes of this Part be taken to be a question as to the right of the employee to a redundancy payment.
- (4) Where an order under section 157 is in force in respect of an agreement, this section has effect in relation to any question arising under the agreement as to the right of an employee to a payment on the termination of his employment, or as to the amount of such a payment, as if the payment were a redundancy payment and the question arose under this Part.
- (5) Where a tribunal determines under subsection (1) that an employee has a right to a redundancy payment it may order the employer to pay to the worker such amount as the tribunal considers appropriate in all the circumstances to compensate the worker for any financial loss sustained by him which is attributable to the non-payment of the redundancy payment.

...

3. Section 139 of the Employment Rights Act 1996 provides:

139.— Redundancy .

- (1) For the purposes of this Act an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is wholly or mainly attributable to—

(a) the fact that his employer has ceased or intends to cease—
(i) to carry on the business for the purposes of which the employee was employed by him, or
(ii) to carry on that business in the place where the employee was so employed, or
(b) the fact that the requirements of that business—
(i) for employees to carry out work of a particular kind, or
(ii) for employees to carry out work of a particular kind in the place where the employee was employed by the employer,
have ceased or diminished or are expected to cease or diminish.

(2) For the purposes of subsection (1) the business of the employer together with the business or businesses of his associated employers shall be treated as one (unless either of the conditions specified in paragraphs (a) and (b) of that subsection would be satisfied without so treating them).

(3) For the purposes of subsection (1) the activities carried on by a [local authority]¹ with respect to the schools maintained by it, and the activities carried on by the [governing bodies]² of those schools, shall be treated as one business (unless either of the conditions specified in paragraphs (a) and (b) of that subsection would be satisfied without so treating them).

(4) Where—

(a) the contract under which a person is employed is treated by section 136(5) as terminated by his employer by reason of an act or event, and
(b) the employee's contract is not renewed and he is not re-engaged under a new contract of employment,
he shall be taken for the purposes of this Act to be dismissed by reason of redundancy if the circumstances in which his contract is not renewed, and he is not re-engaged, are wholly or mainly attributable to either of the facts stated in paragraphs (a) and (b) of subsection (1).

(5) In its application to a case within subsection (4), paragraph (a)(i) of subsection (1) has effect as if the reference in that subsection to the employer included a reference to any person to whom, in consequence of the act or event, power to dispose of the business has passed.

(6) In subsection (1) “cease” and “diminish” mean cease and diminish either permanently or temporarily and for whatever reason.

4. Regulation 13 of the Working Time Regulations 1998 provides:

(A1) This regulation applies to—

- (a) a worker in respect of any leave years beginning before 1st April 2024, and
- (b) a worker to whom regulation 15B does not apply in respect of any leave years beginning on or after 1st April 2024.

(1) Subject to paragraph (5), a worker is entitled to four weeks' annual leave in each leave year.

(3) A worker's leave year, for the purposes of this regulation, begins—

- (a) on such date during the calendar year as may be provided for in a relevant agreement; or
- (b) where there are no provisions of a relevant agreement which apply—
 - (i) if the worker's employment began on or before 1st October 1998, on that date and each subsequent anniversary of that date; or
 - (ii) if the worker's employment begins after 1st October 1998, on the date on which that employment begins and each subsequent anniversary of that date.

...

(5) Where the date on which a worker's employment begins is later than the date on which (by virtue of a relevant agreement) his first leave year begins, the leave to which he is entitled in that leave year is a proportion of the period applicable under [paragraph (1)]⁵ equal to the proportion of that leave year remaining on the date on which his employment begins.

(9) Leave to which a worker is entitled under this regulation may be taken in instalments, but—

- (a) subject to the exceptions in paragraphs (14), (15) and (17) it may only be taken in the leave year in respect of which it is due, and
- (b) it may not be replaced by a payment in lieu except where the worker's employment is terminated.

(14) Where, as a result of taking a period of statutory leave in any leave year, a worker is unable to take some or all of the annual leave to which the worker is entitled in that leave year under this regulation, the worker is entitled to carry forward such untaken leave into the following leave year.

(15) Where, as a result of taking a period of sick leave in any leave year, a worker is unable to take some or all of the annual leave to which the worker is entitled in that leave year under this regulation, the worker is entitled to carry forward such untaken

leave into the following leave year provided it is taken by the end of the period of 18 months from the end of the leave year in which the entitlement originally arose.

(16) Paragraph (17) applies where, in any leave year, an employer fails to—

- (a) recognise a worker's right to annual leave under this regulation or to payment for that leave in accordance with regulation 16;
- (b) give the worker a reasonable opportunity to take the leave to which the worker is entitled under this regulation or encourage them to do so; or
- (c) inform the worker that any leave not taken by the end of the leave year, which cannot be carried forward, will be lost.

(17) Where this paragraph applies and subject to paragraph (18), the worker is entitled to carry forward any leave to which the worker is entitled under this regulation which is untaken in that leave year or has been taken but not paid in accordance with regulation 16.

(18) Annual leave that has been carried forward pursuant to paragraph (17) cannot be carried forward beyond the end of the first full leave year in which paragraph (17) does not apply.

5. Rule 32 of the Employment Tribunal procedure Rules 2024 provides:

- (1) An application by a party for a postponement must be received by the Tribunal as soon as possible after the need for a postponement becomes known.
- (2) In the circumstances listed in paragraph (3) the Tribunal may only order a postponement where—
 - (a) all other parties consent, and—
 - (i) it is practicable and appropriate for the purposes of giving the parties the opportunity to resolve their disputes by agreement, or
 - (ii) it is otherwise in accordance with the overriding objective,
 - (b) the application was necessitated by an act or omission of another party or the Tribunal, or
 - (c) there are exceptional circumstances.
- (3) The circumstances are—
 - (a) a party makes an application for a postponement less than 7 days before the date on which the hearing begins, or

(b) the Tribunal has ordered two or more postponements in the same proceedings on the application of the same party and that party makes an application for a further postponement.

(4) In this rule—

(a) "postponement" means a postponement of a hearing including any adjournment which causes the hearing to be held or continued at a later date;

(b) "exceptional circumstances" may include ill health relating to an existing long term health condition or disability.

Preliminary matters

6. I received a written application for a postponement of the hearing from the respondent dated 20 January 2026 which was two days before the final hearing date. The notice of hearing had been sent to both parties on 25 September 2025. The written application was made on the basis that there was no hearing bundle or witness statements and the respondent was concerned that the claimant would be disadvantaged if the matter proceeded to a final hearing and only oral evidence was heard by the tribunal. The written application stated that the respondent had changed its address and had not received the notice of hearing.
7. In the oral application the respondent reiterated its argument about the disadvantage to the claimant of proceeding only on the basis of oral evidence. The respondent accepted that it had only been instructed two days before the date of the hearing and that the only matter in issue was whether the claimant had resigned or been made redundant. The respondent gave no explanation for the delay in instructing legal representation and did not provide a reason why it had not contacted the tribunal regarding the date of the final hearing if it had not received the notice of hearing.
8. The claimant opposed the application and stated that he was in a position to proceed on the basis of oral evidence only. He accepted that he had not provided a witness statement but had not realised he needed to provide one as he was the claimant and had not understood that he was a witness in his own claim.
9. I considered rule 32 and accepted that the respondent's representatives applied for a postponement as soon as possible once they were instructed. I considered whether there were any matters in rule 32(2) and (3) which may allow for a postponement of the hearing and applied the overriding objective in rule 3. As the

application was made less than 7 days prior to the to the final hearing date I applied rule 3 in order to deal with the case justly and fairly while ensuring all parties were on an equal footing.

10. Because the claimant was willing to proceed, the issue was narrow and factual in nature and due to the lateness of the instruction of legal representation by and lack of engagement from the respondent I determined that the postponement application be dismissed and the claim should proceed on the basis of oral evidence.

The evidence before me

11. I was provided with a bundle of 34 pages for the final hearing. I was also provided with correspondence between the claimant and the respondent and a payslip from the claimant. There were no witness statements from either party but I had the claim form and response form in the bundle. I heard oral evidence from the claimant, Mr Naveen Stephen, Mr Stuart Horn and Ms Victorine Stephen.
12. Having heard the evidence and read such documents as were referred to during the hearing I made the following findings of fact.

My findings of fact

Redundancy or resignation

13. The claimant stated that he had first been made aware of problems with the respondent's business in December 2024. He was informed that his job was secure and that there would be another meeting in December to discuss financial difficulties. In the first week of January 2025 the claimant was told that the respondent was in financial difficulties and would likely be going into insolvency. The claimant worked the remainder of the month of January and was issued with a redundancy letter on 23 January 2025 by the respondent.
14. Mr Stephen stated that in fact the claimant had tendered his resignation on 2 January 2025 after he had been informed of the financial difficulties of the respondent but that he wanted to work out his notice period before he left on 23 January 2025. Mr Stephen also alleged that he regularly spoke with insolvency practitioners throughout his time as an owner of Cat 5 to consider the company's options. Mr Stephen accepted sending the redundancy letter to the claimant but sated that this had been done to provide the claimant with a safety net and leave the door open for his return if things did not go well in his new job.

15. Mr Horn stated that he had not been present when the claimant resigned but stated that the respondent had never been insolvent. Ms Stephen accepted that she had also received a redundancy letter on 23 January 2025 from the respondent but that she considered herself to still be working and not redundant. She stated that she had not been present when the claimant resigned and had been informed by Mr Stephen of the matter. Ms Stephen made reference to a conversation with the claimant regarding the redundancy letter as being a 'lifeline' for him to take to HMRC to claim some money.
16. I found that the letter of 23 January 2025 was a redundancy letter and this was sent to the claimant on that date. I did not accept that the claimant resigned on 2 January because of the 23 January letter which specifically stated that the claimant had been made redundant. The claimant had a young family, had worked for the respondent for many years and would have been unlikely to risk losing a job if he could remain employed by the respondent. I found that the claimant was made redundant by the respondent on 23 January 2025. I did not accept that there had been a conversation between the claimant and respondent about making a claim to HMRC with the letter.
17. I found that the respondent had been going through insolvency and had intended to cease the business for which the claimant was employed. Mr Horn avoided answering the direct question about whether the respondent had started insolvency proceedings from January to March 2025. His reply was that the respondent was not insolvent. Mr Stephen also avoided answering the same question and repeated the same reply. I found that the respondent had started insolvency proceedings from January 2025 to March 2025. I found that the respondent was not insolvent at the date of the hearing. The inability of respondent witnesses to answer this direct question from the claimant, despite emails showing that conversations regarding insolvency were taking place between the respondent and insolvency practitioners, affected the weight I gave to their evidence.

Holiday pay

18. The claimant claimed for two days of holiday which he had accrued but not taken by the time his employment ended. I found that he had not been paid for two days holiday.

Notice pay

19. For the reasons set out above I found that the claimant's employment was terminated without notice on 23 January 2025 in breach of his employment contract and he was owed the statutory rate of notice pay for his period of employment. The claimant's period of employment enabled him to claim 12 weeks' notice pay due to his length of service with the respondent which was thirteen years.

Remedy

20. The amount of the claimant's salary, £42000 gross per year which is £3500 gross per month, was not disputed by the respondent.
21. The claimant was entitled to a statutory redundancy payment based on a weekly gross salary of £807.69 over a period of 13 years. This amounts to £10499.97.
22. The claimant was entitled to holiday pay for two days at a daily gross rate of £161.54. This amounts to £323.08.
23. The claimant was entitled to notice pay of twelve weeks at a weekly gross salary of £807.69. This amounts to £9692.28
24. The total sum owed to the claimant by the respondent is £20515.33.

Conclusion

25. Under section 163 Employment Rights Act 1996 it is determined that the claimant is entitled to a redundancy payment of £10499.97.
26. The complaint in respect of holiday pay is well-founded. The respondent made an unauthorised deduction from the claimant's wages by failing to pay the claimant for holidays accrued but not taken on the date the claimant's employment ended.
27. The respondent shall pay the claimant £323.08. The claimant is responsible for paying any tax or National Insurance.
28. The complaint of breach of contract in relation to notice pay is well-founded.
29. The respondent shall pay the claimant £9692.28 as damages for breach of contract. This figure has been calculated using gross pay to reflect the likelihood that the claimant will have to pay tax on it as Post Employment Notice Pay.

Case Number: 6013854/2025

Approved by:

Employment Judge Modupe Smith

23 March 2026

Sent to the parties on:

15 May 2026

For the Tribunal:

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision. If written reasons are provided they will be placed online.

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