



EMPLOYMENT TRIBUNALS

Claimant

Mr L M Woods

Respondent

v CGS Administrative Services Limited

Heard at: Bury St Edmunds

On: 27, 28 and 29 April 2026

Before: Employment Judge KJ Palmer (sitting alone)

Appearances

For the Claimant: In person

For the Respondent: Mr Mallan (Counsel)

JUDGMENT having been sent to the parties and written reasons having been requested in accordance with Rule 60 of the Employment Tribunal Rules of Procedure 2024, the following reasons are provided:

REASONS

Background

1. The Claimant presented a claim to this Tribunal on 6 May 2025, pursuant to his employment by the Respondents which spanned 9 January 2023 to 10 April 2025 when his employment terminated pursuant to his resignation, delivered by letter on 10 January 2025. The Claimant had been employed for that period of time as a Financial Accountant for the Respondents.
2. The Claimant is not represented and his claim was home made. In his claim he advances a claim for constructive unfair dismissal and a claim for holiday pay.
3. The breaches that the Claimant relies upon were not clear in the ET1 Claim Form, pursuant to an Order issued by my colleague in the Reading Employment Tribunal, the Claimant provided further and better particulars of his claim under cover of further and better particulars, which were before me in the Bundle.

Evidence before me

4. I had before me a Bundle running to some 317 pages and further additional documents were added by the Claimant without any complaint from the

Respondents, at the outset of the Hearing. These are detailed in a Supplementary Index and have been added into the Bundle with the suffix of "A" attached to each of those additional pages.

5. In that Bundle I had all relevant documents including the further and better particulars. I heard evidence from the Claimant and two Witnesses on behalf of the Respondents, a Mr N Zhou who is the Finance Director at the Respondents and also from the Head of HR , Ms Louise Moore.

The Claims and Issues

6. It appears from the documents in front of me and from the evidence that I have heard, that the Claimant's claim is based on a number of breaches that he says were perpetrated by the Respondent. It is worth mentioning that this case had not been pro-actively case managed and there had been no Preliminary Hearing Case Management Discussion, therefore the issues before me are evident from the further and better particulars, the pleadings and the evidence that I have heard.
7. In terms of the breaches that the Claimant relies upon, there appears to be seven breaches that the Claimant says the Respondent's perpetrated. I will briefly set those out and they are in no particular order, as follows:
 - 7.1. That the Claimant was asked to do additional work over and above the work that he was doing and that has been known as "the Gill House extra work".
 - 7.2. That the Claimant was asked to come into the office three days a week by Mr Zhou, on Tuesdays, Wednesdays and Thursdays under the Respondent's Flexible Working Policy. He says that amounts to a breach of an existing agreement. This appears to be the way in which that Flexible Working Policy was presented by Mr Zhou as a fait accompli and the fact that Mr Zhou said that anyone who did not comply with the requirement to come into work on Tuesdays, Wednesdays and Thursdays would suffer serious consequences.
 - 7.3. The removal of certain IT access and access to meetings which occurred as a result of the Claimant ceasing to do the extra Gill House work.
 - 7.4. The fact that having ceased to do the Gill House work, members of the London Team had not been told that the Claimant had been removed from doing the extra work or had ceased to do it and they continued to contact him.
 - 7.5. The failure to undertake the pay review in January of 2025.
 - 7.6. A possible issue relating to the way in which the accounts were being prepared, which the Claimant indicated was a possible fraud and he raised this to Mr Zhou and says that nothing was done about that.

- 7.7. A grievance raised by the Claimant pursuant to the serious consequences comment by Mr Zhou and that grievance was raised in December. The breach relied upon is the fact that the grievance was then not dealt with expeditiously.
8. Those appear to be the breaches that the Claimant relies upon.
9. In his further and better particulars he makes it clear that this is what is known as a 'last straw doctrine' case. It may well be that it is sensible to just revisit some of the pertinent Law on constructive dismissals before we look more closely at the last straw doctrine.

The Law

10. Constructive dismissals are governed by Sections 95(1)(c) and 136(1)(c) of the Employment Rights Act 1996.
11. That states that there is a dismissal when the employee terminates the contract with or without notice in circumstances such that he or she is entitled to terminate it without notice by reason of the employer's conduct.
12. The leading Authority on this remains the case of Western Excavating ECC Limited v Sharpe [1978] ICR 221. This was a Court of Appeal case where the Court of Appeal ruled that the employer's conduct which gives rise to a constructive dismissal must involve a repudiatory breach of contract. As Lord Denning put it,
- “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 and he is constructively dismissed.”
13. That still remains the leading case.
14. In this case the Claimant relies upon the implied term of trust and confidence between employer and employee. There are some key elements for a Claimant to prove to get home on a claim of constructive dismissal and it must be remembered that the burden of proof is on the Claimant to show that there was a constructive dismissal and that is on the balance of probability.
15. In order to claim a constructive dismissal, the employee must establish a number of things. Firstly, that there was a fundamental breach of contract on the part of the employer that repudiated the contract of employment; secondly, that the employer's breach caused the employee to resign; and thirdly, that the employee did not delay too long before resigning, thus affirming the contract and losing the right to claim constructive dismissal.

16. There are three elements and “repudiatory” breach and “fundamental” breach, are really interchangeable. What they mean is that the employer’s behaviour is such that it is so serious that it goes to the root of the contract and therefore is either fundamental or in legal terms repudiatory, it repudiates the contract.
17. Some complication is added where there is a last straw doctrine case. That is what we have here. In a last straw doctrine case the Claimant argues that a series of breaches that do not necessarily in themselves individually constitute fundamental or repudiatory breaches but may have a cumulative effect of breaching the implied term of trust and confidence over a period of time, can constitute sufficient to enable the Claimant to resign and claim constructive dismissal.
18. In the Court of Appeal in Lewis v Motorworld Garages Limited [1986] ICR 157, the Court of Appeal held that,

“A course of conduct can cumulatively amount to a fundamental breach of contract entitling an employee to resign and claim constructive dismissal following a last straw event or incident, even though that incident does not of itself amount to a breach of contract.”
19. However, in Omilaju v Waltham Forest London Borough Council [2005] ICR 481, Lord Justice Dyson considered that,

“The last straw does not have to be of the same character as the earlier acts in the series but it must contribute something to the breach of trust and confidence.”
20. Cases on the last straw doctrine are therefore individual and they turn on their own facts.

The Facts and Conclusions

21. This is a last straw doctrine case. One of the key issues that I have to consider is first, whether any of those breaches relied upon are breaches of contract. If none of them are breaches of contract, including the last straw then the Claimant’s claim must fail. One or more of them may not be breaches and others may be and there would have to be a sufficient number of them to constitute cumulatively the effect that I have set out, which is the fundamental breach that goes to the root of the contract.
22. It is also very important to remember the second limb of the test for constructive dismissal, which is that the employee must resign as a consequence of the breaches and it is for the employee to show that and the burden is on the employee in that respect. In that respect I have to turn my attention to the resignation letter which is the letter dated 10 January 2025.
23. In that letter two of the breaches that are not mentioned. Those are the requirement to work flexibly in the office three days a week because only

the serious consequences comment is mentioned in the resignation letter and very importantly, the allegation that the failure to conduct an annual review properly, is also not mentioned.

24. Therefore I have to consider the evidence that I have heard and I heard evidence from the Claimant, from Mr Zhou and from the Head of HR as well. In terms of that point which is a key point in the Claimant's case, I am invited by Mr Mallon, Counsel for the Respondents, to conclude that the Claimant's case must fail because he has not relied in his resignation letter on the key triggering last straw breach that he now seeks to rely upon. He says he did and he asks me to consider that the second paragraph in that letter constitutes him bringing to his employer's attention that he was relying upon the failure to review, it reads as follows:

"Firstly I find that my employment contract has been breached in multiple incidences by the employer which is not only disappointing but a violation of our agreement."

25. He says that it was in his mind that the botched or not done properly pay review was one of the reasons why he resigned. I have to consider the evidence that is in front of me and that is the documentary evidence I have and the evidence I have heard from the Claimant, I have to consider that evidence in the round.
26. I also have a copy of the Grievance in front of me which was sent on 9 December 2024 and that Grievance raises a grievance about the serious consequences comment. The resignation did not then come until 10 January 2025. The Claimant had raised a lengthy letter previously in October of 2024, where he set out that he was in the previous January review entitled to a significant pay rise of some 40%. He was also asking for further recompense in respect of the extra work of the Gill House work that he had been asked to do.
27. That issue had been raised in October with respect to the 2023 review and we come to January 2025 and the Claimant's resignation letter where he did detail a lengthy series of six breaches he relied upon. However, nowhere in there did he say he was relying on the employer's failure in respect of the requirement to review his salary annually.
28. I cannot accept that there is sufficient evidence before me on the balance of probabilities to convince me that the Claimant did resign as a result of the last straw which was the failure to conduct the review properly.
29. On that basis the Claimant's claim must fail but I will add this, even if he had mentioned that as a reason for his resignation in his letter of 10 January 2025, his claim would still have failed. That is because none of those breaches that he seeks to rely upon are, in my judgement, are in fact breaches of contract. Not only do none of them amount to fundamental or repudiatory breach on their own or cumulatively, none of them in my judgement amount to a breach at all. The Gill House extra work was perfectly acceptably encompassed within the Claimant's existing terms and

conditions in his contract of employment and we looked at that, there was nothing exceptional about the Claimant being asked to do that extra work and I accept Mr Zhou's evidence in that respect that the requirement for the Claimant to do the work that he was doing prior to being asked to do the extra work had diminished. Therefore there was no breach in him being asked to do that extra work, it was part of the work that he was duty bound to do under his contract of employment.

30. The same can be said of the Flexible Working Policy. The contract clearly states that his place of work is at the office. Subsequent to that there is a guiding Flexible Working Policy which says that employees can be required to work in the office 40 – 60% of the week. Mr Zhou was only implementing that Flexible Working Policy when he asked the employees to work Tuesdays, Wednesdays and Thursdays. It would be impossible for Mr Zhou to enforce that 60% without specifying which three days he meant and so that particular requirement that was placed upon the employees was entirely within the contractual terms that the Claimant was subject to.
31. There is insufficient evidence to persuade me that there had been a change in the Claimant's original terms requiring him to work in the office, by virtue of a course of conduct where he was working only one day a week prior to Mr Zhou increasing the requirement to three days a week. I simply do not have enough evidence in front of me to conclude that there had been any such change. Therefore, the application that the Flexible Working Policy was entirely within the Claimant's contractual terms.
32. With respect of the alleged breach of the bullying or threatening comments by Mr Zhou, I accept the evidence of Mr Zhou. The reason I do is because in the Claimant's Grievance, he himself sets out in speech marks what he says took place at the meeting during a call on 22 November and he says as follows,

“Mr Zhou said it is company policy that the business partners are required to be present within Head Office for at least three days per week and that there would be serious consequences for those who do not follow this.”
33. That accords with Mr Zhou's recollection of events but it was a general comment to all staff who might decide to flout that Policy, not a specific comment aimed at the Claimant which the Claimant has alleged was the case during the course of these proceedings. I have just read from the Claimant's own Grievance and it seems clear to me that therefore on the balance of probabilities I should accept Mr Zhou's evidence as to what took place at that meeting.
34. On the basis of that, there is nothing within what Mr Zhou said about serious consequences which constitutes a breach of contract. It is perfectly acceptable for an employer to require employees to comply with a contractual term and to indicate to them that there may be serious consequences if they fail to do so. That cannot be a breach. The employees

cannot be overly sensitive about such matters and take offence at what would be a normal instruction in every work day parlance.

35. Even if Mr Zhou had made that comment directly to the Claimant, rather than in respect of employees as a whole which I do not find to be the case, I still would not have concluded that that amounted to a breach.
36. Similarly, the removal of certain IT access and meetings and the failure to tell the London Team, was merely just something that was a consequence of the Claimant seeking extra payment for the Gill House extra work and therefore he was no longer doing that extra Gill House work. I accept the Respondent's evidence that it was necessary and proper when that extra work was handed over to another colleague that the Claimant would no longer be involved in meetings and IT access relating to it. The removal of that cannot constitute a breach. The same can be said of the fact that the London Team was not told about it, that is simply just a mistake which ultimately was rectified.
37. Turning to the annual pay review, I do find that the contract is clear. That is that it is not necessary for there to be an upwards annual pay review. All there has to be is a pay review. The Respondents say that they conducted a pay review annually, they just did it in secret and they did not involve the employees in it unless those employees were subject to an upward review.
38. I heard evidence from both Mr Zhou and Ms Moore in this respect and I accept that they did conduct that process and determined that no such upward review was appropriate. They did all that was required of them in terms of the contract and therefore that could not be a breach.
39. In terms of the other breaches relied upon, I accept the evidence of Mr Zhou that when the possible fraud was raised by the Claimant at the meeting, it was recorded in the minutes. Mr Zhou dealt with it by asking other members of the team and was reassured by their response. That is not the actions of a company or individual who are intending to avoid something that could be a potential problem. Moreover we really had very little evidence about what that was. I accept Mr Zhou's evidence that he enquired into that particular issue and was satisfied by what he was told. That cannot constitute a breach of the implied term of trust and confidence.
40. Finally, the Grievance which was raised in December 2024 was not dealt with expeditiously and the Respondents accept that. There was some delay and there was further delay in the issuing of the outcome of that Grievance.
41. Having said that, delays are not unheard of, it is desirable for Grievances to be dealt with as reasonably quickly as possible but there was some difficulty I think in the initial dealing of that Grievance as the person who would have dealt with it had moved on and therefore it had to be assigned to somebody else. Whilst it is unfortunate and perhaps unreasonable, I do not consider that that constitutes a breach of contract.

42. I accept the submissions of Mr Mallon that the Claimant was a disgruntled employee who was unhappy in his work and who felt that he should be paid more for what he was doing, hence the very significant request for a pay rise in October 2024. He was further disgruntled by being asked to do extra work which was different work over and above that which he had previously done and was being asked to do that for no further remuneration. He was unhappy about that and further unhappy when he was required to come into the office three days a week in accordance with the Flexible Working Policy. That was a Policy that was there and was implemented but the Claimant was unhappy about that because clearly he had managed to avoid having to come into the office prior to that and had hoped that that state of affairs could continue.
43. All of this simply added up to someone who was unhappy at work and then he did not get a pay rise in January, I find that that did not contribute to his decision to resign but it may well be that he was unhappy from the previous years' lack of pay rise, which is what he expressed in October.
44. In the round we have an unhappy employee who resigned and he is perfectly entitled to do so. He did so giving notice and moved on to another job but he did not resign in reliance of any fundamental breaches following a series of breaches that amounted to a fundamental breach on the basis of the last straw doctrine.
45. Even if I had found that part of the reason for the resignation was a failure to conduct the annual pay review in 2025, I would still have found that none of the alleged breaches amounted to breaches and the claim would therefore also have failed.
46. Turning to the holiday pay claim. This is not clearly articulated in the ET1, although it is set out rather better in the further and better particulars. We were able to get to the bottom of this by discussing it between us.
47. Essentially the dispute is over two days holiday pay. The Respondents have accepted that they underpaid holiday pay in lieu of untaken holiday at termination under the Working Time Regulations 1998 by two days. Holiday in this company is assessed by daily hours and two days amounts to 15 hours.
48. The Claimant says he is entitled to 30 hours, that is effectively four days pay that he says he should have received on termination and the difference has arisen because of the following. The holiday year runs from 1 January each year and employees were permitted unusually to carry over holiday from 2024 to 2025. They were allowed up to five days unused holiday to carry over. This was set out in an email that is before me, (page 220). It allows up to five days holiday to be carried over into the 2025 calendar year, provided that that carried over holiday is used up by the end of February 2025.
49. The Claimant's case is that he only had four days left to carry over and so therefore his carry over was not five days, it was four days. That was duly

carried over into 2025 but with the requirement and this is accepted by the Claimant, that it be used by the end of February or it would disappear. That is the phrase that is often known as 'use it or lose it' in holiday terms.

50. The Claimant took three days holiday between 1 January and his termination date on 10 April 2025. One of which was New Year's Day. New Year's Day was set against his holiday allowance for 2025 and the other two days were set against the four days he was entitled to carry over. That left two days for him still to use from the carry over holiday and he had to use it by the end of February 2025. It is common between the parties that he did not do that.
51. When his employment terminated and his holiday pay was calculated, it was calculated on the basis of the pro-rated holiday he was entitled to in 2025, which was 13 days, plus the four days carried over. He had taken three days so that left 14 days but he had not used two of the carry over days by the end of February 2025 so that dropped his entitlement, in the Respondent's view, to 12 days. He was only paid 10 and therefore the Respondents accept he is entitled to a further two days.
52. The Claimant says he should not have lost those two carry over days because he could not use them for various reasons. He did not articulate in evidence any great detail what those reasons would be and I cannot accept that he could not use them. He could have used them. He used two of them in any event and the third was allotted to 2025. His failure to comply with the carry over principle set out on page 220 by the end of February means that he lost those two days.
53. Therefore I accept the Respondent's calculation as to the amount of holiday pay left owing and it is two days, or 15 hours.
54. In that case I award the sum of £346.15 in respect of those two days.

Approved by:

Employment Judge K J Palmer

Date: 12 June 2026

Sent to the parties on: 29 June 2026

For the Tribunal Office.

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