



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr Sunil Chacko

v

Travelodge Hotels Limited

Heard at: Bury St Edmunds (by CVP)

On: 9, 10, 11, 12 March 2026

Before: Employment Judge K J Palmer

**Members: Miss L Salmon
Miss L Durrant**

Appearances

For the Claimant: In person

For the Respondent: Miss Charalanbous (Counsel)

REASONS

1. Judgment having been sent to the parties and reasons requested by the Claimant reasons are hereby provided.
2. The Claimant, who was employed between 15 March 2022 and 5 September 2024, presented a claim to this Tribunal on 15 October 2024 after a period of early conciliation that ran from 4 October 2024 to 8 October 2024 which was the date of the early conciliation certificate. In his claim he brings claims for unfair dismissal, automatic unfair dismissal under section 103A of the Employment Rights Act 1996, pursuant to an alleged protected disclosure and direct race discrimination made under section 13 of the Equality Act 2010. The Claimant describes his race as Asian. He also pursues a claim for harassment related to race under section 26 of the Equality Act 2010.
3. After presentation of these proceedings there then took place a closed Preliminary Hearing on 14 July 2025 before Employment Judge Dobbie where the claims were clarified. The Claimant was ordered by Employment Judge Dobbie at paragraph 7 of her detailed summary, to provide further information, namely, the precise date and details of the email he was relying upon as his protected disclosure and further information relating to his discrimination claims being dates of the alleged acts of direct discrimination and harassment relied upon. He was given 14 days to do this.

4. Sadly, at the commencement of this trial the Claimant had failed to provide this information and he said that he had missed the order requiring him to do so. This left the list of issues before us as incomplete. When pressed on what amounted to his protected disclosure the Claimant said he had sent various emails and was relying on all of them as part of his claim. When we viewed the bundle that was before us, there was a chain of emails starting with one from the Claimant to “employee relations” at his employer on 3 August 2024. In that email the Claimant, amongst other matters, mentioned that fellow employees were watching videos and listening to music whilst on a night shift at the Respondent’s hotel where he worked instead of focusing on their work. He had specifically told EJ Dobbie that this was the protected disclosure he was relying upon and EJ Dobbie recorded that in her summary. We resolved to accept that the email of 3 August and the allegations contained in it in the terms described by EJ Dobbie, constituted the Claimant’s alleged protected disclosure. This was a somewhat generous interpretation for the Claimant as he had, at the start of the trial, failed to identify any specific email and had simply said that all my emails. His protected disclosure that he relies upon is therefore confirmed to be that email and those specific words as set out in EJ Dobbie’s summary. He also, at the start of this hearing, failed to provide dates as ordered by EJ Dobbie of three of the four acts relied upon in his direct discrimination claim and the three acts relied upon in his harassment claim.
5. One act of direct discrimination relied upon is specified to be the act of dismissal which occurred on 5 September 2024. It was clear from what the Claimant said that he would not now be in a position to provide the dates of the other acts he was relying upon. Three allegations, which are of direct discrimination and harassment, were all against Craig Hall, the Hotel Manager, at the Wellingborough Hotel where the Claimant worked. The Claimant, in his evidence, was able to remember the incidents in question but not when they occurred. In light of this difficulty we resolved to proceed without the certainty of the dates of those incidents.
6. Whilst proceeding on this basis inevitably creates implications in terms of assessing whether those three claims were in or out of time, we felt, in the circumstances, that it was in the interests of justice to so proceed and in accordance with the overriding objective.

The evidence we heard.

7. We had a helpful bundle before us running to some 176 pages and witness statements from all who gave evidence. We heard live evidence from the Claimant and for the Respondents from Mr Hall, Mr Reeves, who handled the disciplinary process and Mrs Odell who handled the appeal. It is important to remember that the burden of proof generally in employment tribunals, is on the Claimant to show that on the balance of probability, what the Claimant says is more likely than not to have happened. All evidence in the Tribunal is weighed on the balance of probability, that is the civil standard and always tribunals have to apply this test where, as usually in employment tribunals, there is some dispute on the evidence between the parties. By applying that test on

the balance of probability, which weights that probability only as 51% as against 49%, tribunals ultimately have to arrive at a decision where they prefer conflicting evidence of one party over the other. Where they do that it doesn't mean to say that they have made a finding that the party whose evidence they do not prefer is lying or is attempting to deliberately mislead. Mistakes happen, memories fade and issues that are important are sometimes forgotten. That does not mean that someone is lying.

8. As a general comment the Claimant's evidence was disjointed, inconsistent and we regard it as unreliable. When he was first cross-examined by Counsel on the first day of the hearing he was taken initially to a record of a meeting he had attended with Mr Hall on 14 July 2024 when he was attending a fact finding meeting. Initially, the Claimant accepted that this meeting had taken place and even was questioned about aspects that reflected that meeting in the notes that were before us, accepting that comments attributed to him had been made. However, we then had the lunch break on day one and upon returning in the afternoon, the Claimant resiled from this and argued that the 14 July meeting had never happened. He also went on to say that the notes of that meeting had been fabricated. This was a stance he then maintained throughout the course of the rest of the proceedings. He went on to say that Mr Hall was lying about this meeting, it had never happened, he had invented the fact that it had happened and had deliberately fabricated the record of the meeting for the purposes of this hearing. The Claimant made these claims despite the fact that he had been sent the notes of that meeting in which Mr Hall discussed the necessity of conducting the then required five fire walks around the building during the nightshift. These notes were sent to the Claimant on two occasions prior to his subsequent disciplinary hearing and dismissal. At no point did he suggest that they were fabricated or that the meeting hadn't taken place. He had ample opportunity to raise this in both a fact finding meeting prior to his disciplinary hearing, the disciplinary hearing itself, the appeal hearing, his ET1 in these proceedings and his witness statement, yet he never raised it any point prior to the first day of these live proceedings.
9. Moreover, throughout these proceedings the Claimant has consistently alleged his failure to conduct the necessary fire walks in the early hours of 12 August which led to his dismissal and the fact that he then signed the sheet to confirm that he had done those fire walks, even when he hadn't, was because he was frightened to actually do the walks because he had been attacked by customers in the bar yet at no point prior to these proceedings after his dismissal has he said that. At no point in numerous emails, the fact finding meeting or in his disciplinary hearing or the appeal hearing did he say he was attacked, only that the bar was busy that night and that there had been some disruptive customers demanding drinks. We regard that as a far cry from the Claimant being attacked. One would have expected him to raise the alarm at the time, had he been attacked, perhaps even calling the Police and certainly we would have expected to hear him plead this vehemently in his defence when confronted with the disciplinary proceedings yet he did not. Moreover, when questioned about this the Claimant argued that he had raised it in his defence at the fact finding meeting and disciplinary hearing but that the notes of those meetings had been deliberately doctored to exclude that. Once again, he had never

mentioned this at any point previously nor in his ET1 nor in his witness statement.

10. Further, the Claimant, throughout his evidence when often confronted with a question which was supported by documentary evidence in front of us, denied that an event took place or simply said that he couldn't remember it. He said his memory was affected by medication that he is taking for depression. Whilst we have no medical evidence before us to support this assertion, we do accept that this is a possibility. It may be, therefore, that these allegations that Mr Hall fabricated the fact of a meeting and the meeting notes is as result of this failure of memory as a result of the medication he is taking. However we have no medical evidence before us to support this assertion and therefore for the reasons set out above we must treat the evidence that we heard from the Claimant with some considerable caution.
11. The Respondent's witnesses on the other hand, gave their evidence with clarity and certainty. We were impressed by all three. We accept, for example, that Mr Hall's decision to escalate the Claimant's failure to perform the fire walks on 12 August and the fabrication of the subsequent records to a disciplinary process was in no way motivated or connected to the Claimant's complaints raised in his email of 3 August or indeed any of the other emails the Claimant sent to Mr Hall or to employee relations. We accept also, Mr Reeves' evidence that he alone made the decision to dismiss the Claimant and that he even had no knowledge of any of the complaints raised by the Claimant at the time in his email of 3 August or indeed at any other time. Therefore, the decision to dismiss was based purely on the Claimant's admitted failure to complete the fire walks and his admission that he then fabricated the records thereafter.
12. For the reasons set out above, therefore, where there is a conflict on the evidence between the parties we have heard between the Claimant and the Respondent's witnesses on the balance of probability, taking into account all the evidence that we have heard and seen, we prefer the evidence of the Respondent's witnesses.

We therefore make the following findings of fact:

13. In July 2024, whilst Mr Hall was conducting random checks on the CCTV, he identified that Mr Chacko had not been doing the fire walks properly. On 14 July 2024 Mr Hall held a fact finding meeting with the Claimant between 23.34 and 00.17 in which he discussed fire walks and how to do them. He confirmed to the Claimant that fire walks are needed and must be undertaken regardless of whether he was working alone or not and the Claimant confirmed that he felt confident and happy to deal with a full evacuation should the event arise whilst he was working alone.
14. On 29 July 2024 Mr Hall held a coaching advice session with the Claimant. During this meeting he explained the importance of the fire walk procedure and how the Claimant should conduct those checks and record that he had done so. It was reiterated to the Claimant again, that he needed to do the fire walks regardless of whether he was alone or working with someone else. The

Claimant reviewed the note of the discussion and signed it, agreeing that the content was what was discussed during the meeting. One of the outcomes of this was to issue the Claimant with further e-learning for fire training which the Claimant accordingly undertook.

15. On 3 August the Claimant sent an email to the Respondent. The tone of the email does not indicate that he was raising concerns with the Respondent as it appeared to be a generalised complaint about the way in which the Respondent runs the hotel and how they engage with their employees.
16. On 6 August 2024 employee relations asked the Claimant if he would like to have a meeting to discuss his concerns raised and what resolution he was looking for. They further confirmed that there are operational teams to make the decision on staffing levels and it is not determined by employee relations. The Claimant does not respond to this email until after he is suspended, responding on 20 August 2024.
17. On 9 August 2024 Mr Hall spent four hours with the Claimant between 11.00pm and 3.00am where they completed a fire walk together and discussed what to look for and what to check whilst doing the fire walk. During the meeting of 16 August 2024 the Claimant agreed that this happened.
18. On 10 August 2024 the Claimant did the 11.00 pm fire walk.
19. On 11 August 2024 the Claimant failed to do the 1.00 am, 3.00 am and 5.00 am fire walk. He also falsely signed the Respondent's sheet to suggest that he had done these three fire walks. Mr Hall asked the Claimant and all employees to do tasks in the evening shift that fall under their job description. There is no evidence other than the Claimant's assertion in these proceedings that the Claimant was attacked at work on 11 August 2024.
20. On 16 August 2024, Mr Hall held a fact finding meeting with the Claimant between 5.42 am and 5.58 am. During this meeting the Claimant accepted that he had not done all the fire walks but had signed the sheet indicating that they had been done. The Claimant did not suggest, at that point, that he had been told to do this by a manager, or Danika. The Claimant stated the reason for not doing the fire walks was because it was busy and he was working alone.
21. On 22 August 2024 the Claimant attended a disciplinary hearing with Daniel Reeves. During this hearing the Claimant was given a full opportunity to explain the reason for his actions and during that hearing the Claimant confirmed that the conversation on 14 July had gone ahead by discussing the content of that conversation. The Claimant, for the first time, suggested that Danika had told him not to sign the sheet when she came in. The Claimant suggested that there had been a disturbance at the bar and he warned guests and thereafter they sat at the bar until 4.00 am but were quiet thereafter and caused no more problems. The Claimant was not concerned enough to have activated the alarm nor called the Police.

22. On 1 September 2024 Mr Hall reviewed the CCTV footage of another employee Miss Masurier on 2 August 2024 and identified that she did not do a fire walk at 5.00 am on 22 August 2024. Accordingly, Mr Hall held an advice and coaching session with Miss Masurier on 3 September in which he took exactly the same approach as he had taken with the Claimant on 14 July 2024.
23. Following this, on 5 September, the Claimant was dismissed and the reason for his dismissal was explained to him in writing. Mr Reeves gave evidence consistent with these reasons.
24. On 9 September the Claimant appealed his dismissal.
25. On 25 September the Claimant attended an appeal hearing with Carol Odell. During that hearing the Claimant was given the opportunity to put forward his position as to why the decision to dismiss him should be overturned. In doing so the Claimant once again raised the issue that Danika had told him that he needed to sign the fire book, even if he had not had time to complete the fire walks. Mrs Odell conducted the meeting with Danika to understand her position and Danika denied those allegations.
26. On 4 October 2024 the Claimant was sent the outcome of his appeal hearing.
27. On an occasion, which we do not know the date of, the Claimant sought to put a customer into an offline room and Mr Hall explained to him why guests cannot be checking into offline rooms in a one to one meeting. We accept that Mr Hall did not shout at the Claimant in front of his colleagues. Neither party is clear on what date this occurred.
28. The Claimant is also subject to the Respondent's uniform policy and, on one occasion, the Claimant was wearing white trainers and Mr Hall asked him not to wear white trainers moving forwards as they were not in accordance with the Respondent's dress code. We accept Mr Hall's evidence that Mr Hall regularly pulls colleagues up on their uniform if it is not appropriate, that he doesn't tell them off. Neither party was clear on which date this happened.

The Law

29. We are very grateful to Counsel of the Respondent for providing a detailed exposition of the law and I do not propose to repeat it in the level of detail in which Counsel has put that law in her written submissions. However, for the purposes of this judgment, unfair dismissal is governed by section 98(1) of the Employment Rights Act 1996 which tells us that in determining for purposes of this path, whether the dismissal of an employee is fair or unfair, it is for the employer to show:
 - a. The reason, or if not than one, the principal reason for the dismissal, and
 - b. That there is either a reason falling within sub-section 2 or some other substantial reason of a kind such as to justify the dismissal of an employee holding a position which the employee held. Under sub-section

2 a reason falls within this subsection if it relates to the conduct of the employee. Where the employer has fulfilled the requirements of subsection 1, the determination of the question of whether the dismissal is fair or unfair, having regard to the reasons shown by the employer, depends on whether, in all the circumstances, including the size and the administrative resources of the employer's undertaking the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee. This shall be determined in accordance with equity and the substantial merits of the case.

30. In applying these tests, the first of which has the burden upon the employer and the second and third of which are neutral, the Tribunal is guided by a number of previously decided authorities. When determining the fairness of conduct dismissals, according to the Employment Appeal Tribunal in the case of British Home stores v Burchall [1981] ICR303, the Tribunal must consider a three fold test.
- a. The employer must show that he believed the employee was guilty of misconduct.
 - b. The Tribunal must be satisfied that he had in his mind, reasonable grounds upon which to sustain that belief and
 - c. The Tribunal must be satisfied that the stage which the employer formed that belief on those grounds, they carried out as much investigation into the matter as was reasonable in the circumstances. It is very important to remember that it is not for the Tribunal to substitute its own decision as to the reasonableness of the investigation. That is often known as the Burchall Test. Once the Burchall test has been passed, in terms of assessing under section 98(4) whether the decision to dismiss was reasonable or not, the Tribunal is guided by the case of Iceland Frozen Foods v Jones [1982] IRLR 439. This case tells us that we must assess whether a decision to dismiss falls within a band of reasonable responses of an employer faced with a set of circumstances with which they were faced. It is very important that a Tribunal does not substitute its own view as to what he would have done in those circumstances but whether the decision to dismiss fell within a band of reasonable responses.

Protected disclosures

31. Protected disclosures are governed by section 43A and 43B which details what amounts to a qualifying disclosure. Under section 43B, to qualify as a qualifying disclosure capable of protection has to be found to be any disclosure of information which, in the reasonable belief of the worker making the disclosure is made in the public interest and tends to show one or more of six possible events under 43B 1 (a) to (f). We know that in this case as set out in EJ Dobbie's summary, the Claimant is relying upon (d) which is that the health or safety of any individual has been or is likely to be endangered. If a claimant can show that such a disclosure is a protected disclosure by applying the tests

in 43B, then it is for the Tribunal to determine whether an employee who is dismissed shall be regarded as unfairly dismissed, if the reason or more than one, the principal reason for the dismissal is that the employee made that protected disclosure. That is section 103A and it is upon that section that the Claimant relies. It is important to remember, of course, that if the Tribunal determines that the alleged protected disclosure played no part in the decision to dismiss, then the Claimant's claim must fail.

Direct discrimination

32. This is governed by section 13 of the Equality Act 2010 and says a person A discriminates against another B if, because of a protected characteristic, A treats B less favourably than A treats or would treat others. That requires a two stage process. Firstly, is the treatment less favourable and secondly, is that less favourable treatment discriminatory. The two steps must not be conflated. In order to establish the first question, the treatment must be compared to others who are in a materially different situation to the Claimant so it is for claimants to produce appropriate comparators and if no actual comparators exist, they can rely on hypothetical comparators. It is also important to remember that the burden is upon the Claimant to show that the reason for the treatment was because of a protected characteristic and there is ample case law which tells us that different treatment and the presence of a protected characteristic do not, of themselves, amount to discrimination on the basis of that protected characteristic. In such a case different treatment and different race does not necessarily mean that the treatment was because of race, there has to be something else, there had to be an X factor that connects the two.

Harassment

33. Harassment is governed under section 26 of the Equality Act 2010 which says "a person A harasses another B if A engages in unwanted conduct related to a protected characteristic and the conduct has the purpose or effect of violating B's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for B. In this case the relevant protective characteristic which the Claimant relies upon is race.

Conclusions

Unfair dismissal

34. We conclude that the Respondents have discharged the burden on them to show that the only reason for the dismissal was the Claimant's conduct on the night of 11 and 12 August 2024. The reason was therefore conduct. The Respondent carried out a detailed and fair process conducting a fact finding investigation and engaging a different manager to conduct a disciplinary process. We find, therefore, that the elements of the Burchall test had been passed and the decision to dismiss was based on a reasonably held belief in the Claimant's guilt. He admitted both strands of the misconduct and that was after a fair procedure and investigation in all the circumstances.

35. Moving on to section 98(4) and the authorities that apply to that. We consider that in all the circumstances the decision to dismiss fell within the band of reasonable responses of an employer faced with the evidence that they had before them and that therefore the decision to dismiss was fair by reason of conduct. The Claimant admitted that he had failed to complete 3 essential fire walks and further admitted that he had fabricated the verification sheet by signing to indicate that he had completed those fire walks when he hadn't. We also conclude that the Respondents conducted a fair and reasonable disciplinary process prior to deciding to dismiss.

Automatic unfair dismissal under section 103A.

36. We find that the email of 3 August or indeed any emails that the Claimant sent played absolutely no part whatsoever in the decision to dismiss the Claimant. Therefore, it is not necessary or us to make a finding as to whether the elements of the email of 3 August, as set out in EJ Dobbie's summary, amounted to a qualifying and protected disclosure by applying the tests in 43B. However, had we been called upon to do so, we would have concluded that any disclosure was confined to the wording set out in the summary of EJ Dobbie and that the Claimant did not in any event hold a reasonable belief that that information constituted information falling into 43B (1) (d).

Direct sex discrimination

37. We find that none of the acts set out in EJ Dobbie's summary at 5(2)(i), 5(2)(ii) or 5(2)(iii) happened as we accept the evidence of Mr Hall.

38. As to the dismissal at 5(2)(iv) we find that that, of course, did happen but that the sole reason was the Claimant's conduct and he was not dismissed for anything to do with race. He was also not treated differently from others who had exhibited poor conduct as the evidence showed that Puja was subject to exactly the same treatment on her first offence of failing to do the fire walk as the Claimant. Moreover, the Claimant had not produced an appropriate comparator as Puja was also Asian.

Harassment

39. None of the acts relied upon happened as a matter of fact as alleged. Therefore, the claims in harassment must fail. However, having accepted Mr Hall's evidence as to how these incidents unfolded, we find no evidence at all that Mr Hall's actions were related in any way to the Claimant's race. In light of the above we do not have to consider whether 5(2)(i), 5(2)(ii) or 5(2)(iii) were in or out of time.

40. As a result of the reasons set out above the Claimant's claims all fail and are dismissed.

Approved by:

Employment Judge K J Palmer
Date: 16 June 2026

Sent to the parties on: 6 July 2026

For the Tribunal Office.