



EMPLOYMENT TRIBUNALS

Claimant: Mustafa Serhat Saatci
Respondent: Richmond Food & Supply Ltd
Heard at: London South
On: 14 April, 8 & 9 June 2026
Before: Employment Judge Evans

REPRESENTATION

Claimant: in person
Respondent: a director of respondent

JUDGMENT

1. The claimant was both an employee and a worker of the respondent from 1 July 2025 to 3 September 2025.
2. The complaint of unauthorised deductions from wages is well-founded. The respondent made unauthorised deductions from the claimant's wages in the period from 1 July 2025 to 3 September 2025. The respondent shall pay the claimant **£8,750**, which is the total gross sum deducted. The claimant is responsible for the payment of any tax or National Insurance.
3. The complaint of breach of contract in relation to pension contributions is well-founded. The respondent shall pay the claimant **£262.50** as damages for breach of contract in respect of the pension contributions due to the claimant between 1 July and 3 September 2025.
4. The complaint of breach of contract in relation to notice pay is well-founded. The respondent shall pay the claimant **£5,569.63** 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.
5. The complaint in respect of holiday pay is well-founded. The respondent failed to pay the claimant in accordance with regulation 14(2) and/or 16(1) of the Working Time Regulations 1998. The respondent shall pay the claimant **£958.65**. The claimant is responsible for paying any tax or National Insurance.

REASONS

Preamble

1. These are the full reasons for my judgment set out above. I reserved my judgment when the parties had finished their submissions on 9 June 2026 because there was insufficient time for me to deliberate and give an oral judgment on the day.
2. The claimant presented his claim on 6 November 2025. His claim was for unpaid salary, notice pay and holiday pay. Although the claimant made an application to amend his claim, that application was subsequently withdrawn on 29 March 2026. The claimant confirmed this at the beginning of the hearing on 14 April 2026.
3. The hearing had been listed for a three hour hearing on 14 April 2026. This was insufficient time: the claimant wished to use an interpreter, the issues had not been agreed, and the claim was not factually straightforward. In the event, all that was achieved on 14 April 2026 was that the List of Issues as set out below was agreed and we began to hear the claimant's evidence.
4. When the hearing resumed on 8 June 2026, I had the following bundles of documents before me:
 - 4.1. A bundle of documents provided by the claimant before or at the hearing on 14 April 2026 ("CB1") containing 60 pages;
 - 4.2. A bundle of document provided by the claimant pursuant to orders that I made on 14 April 2026 ("CB2") containing 27 pages;
 - 4.3. A bundle of documents provided by the respondent prior to the hearing on 14 April 2026 containing 128 pages ("RB").
5. The claimant completed his oral evidence on 8 June 2026. The following witnesses then gave evidence for the respondent: Mr Kumar, Ms C Singh, Mr A Singh and Mr Pratap.
6. The claimant had included witness statements of sorts from Mr Haken Ceren (CB1 page 47) and Mr Özcan Mehmet Şenol (CB1 page 48) in his bundle. I explained to him on 14 April 2026 that I was unlikely to give much weight to these witness statements if the witnesses did not attend. They did not attend on 8 June 2026 and I repeated my comments. The claimant said that he would try and get them to attend the following day. In the event Mr Şenol attended to give oral evidence on 9 June 2026 but Mr Ceren did not.
7. As noted above, the claimant wished to use an interpreter (Turkish language) and one had been provided. However, the claimant speaks fairly fluent English and did not wish to use, or need, the interpreter for the whole of the hearing. Indeed, when the claimant understood what had been said in English, he found it difficult to wait until the interpreting had taken place before speaking, even if that was during a part of the hearing in which he had said he wished to use the interpreter. In practice,

the claimant generally used the interpreter when asking questions to witnesses, when the respondents' witnesses were giving evidence, and for parts of his own oral evidence. He said that he wished to use the interpreter when the respondents' witnesses were giving evidence because he found their accents difficult to understand. In addition, the respondent's submissions were translated in full and the claimant made his submissions in Turkish which were translated. There were also various occasions when I asked the interpreter to interpret because it seemed to me possible that the claimant had not understood. Overall, I was satisfied that there was no problem with the interpreting. I was satisfied that the claimant understood what was said during the hearing, and that others understood what he wished to say.

The issues

8. The claims and issues were agreed at the beginning of the hearing to be as follows:

1. Employment status

- 1.1 Was the claimant an employee of the respondent within the meaning of section 230 of the Employment Rights Act 1996 between 1 May 2025 and 3 September 2025?
- 1.2 Alternatively, was the claimant a worker of the respondent within the meaning of section 230 of the Employment Rights Act 1996?

2. Unauthorised deductions/breach of contract

- 2.1 If the claimant was either an employee or a worker of the respondent, did the respondent make unauthorised deductions from the claimant's wages and if so how much was deducted?
- 2.2 The claimant contends that he was employed under a contract of employment entitling him to a salary of £65,000 and that he was not paid for the period 1 May to 3 September 2025. He claims 4.1 months salary which he calculates as follows: $\text{£}5416.67 \times 4.1 = \text{£}22208.35$ minus $\text{£}5000 = \text{£}17208.35$.
- 2.3 The claimant further contends that the respondent made unauthorised deductions/acted in breach of contract by failing to pay 3% in pension contributions.

3. Wrongful dismissal / Notice pay

- 3.1 If the claimant was an employee, what was the claimant's notice period?
- 3.2 Was the claimant constructively dismissed? The Tribunal will consider:
 - 3.2.1 Did the respondent fail to pay the claimant the salary due to him under his contract of employment?

3.2.2 Did that breach the implied term of trust and confidence? The Tribunal will need to decide:

3.2.2.1 whether the respondent behaved in a way that was calculated or likely to destroy or seriously damage the trust and confidence between the claimant and the respondent; and

3.2.2.2 whether it had reasonable and proper cause for doing so.

3.2.3 Alternatively, did that breach the express term of his employment relating to salary? If so, was the breach a fundamental one? The Tribunal will need to decide whether the breach was so serious that the claimant was entitled to treat the contract as being at an end.

3.2.4 Did the claimant resign in response to any breach? The Tribunal will need to decide whether the breach of contract was a reason for the claimant's resignation.

3.2.5 Did the claimant affirm the contract before resigning? The Tribunal will need to decide whether the claimant's words or actions showed that they chose to keep the contract alive even after the breach.

3.2.6 If not, what damages are payable to the claimant for breach of contract? The claimant contends that he should receive 3 months pay at £5416.67/month = £16250, on the basis that he had a notice period of three months and a further 3% in respect of pension contributions. *The claimant was under an obligation to mitigate his loss. He found alternative employment. Any damages payable will be reduced by the amount the claimant earned during what would have been his notice period.*

4. Holiday Pay (Working Time Regulations 1998)

4.1 If the claimant was either an employee or a worker of the respondent, did the respondent fail to pay the claimant for annual leave the claimant had accrued but not taken when their employment ended?

4.2 The claimant contends that he was entitled to holiday pay calculated as follows: 4.1 months worked plus 3 months notice x 28/12 = 16.57 days @ £250.00/day = £4141.67.

5. Acas uplift

5.1 Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?

- 5.2 Did the respondent unreasonably fail to comply with it?
- 5.3 If so is it just and equitable to increase or decrease any award payable to the claimant? By what proportion, up to 25%?

6. Written statement of particulars

- 6.1 When these proceedings were begun, was the respondent in breach of its duty to give the claimant a written statement of employment particulars or of a change to those particulars?
- 6.2 If the claim succeeds, are there exceptional circumstances that would make it unjust or inequitable to make the minimum award of two weeks' pay under section 38 of the Employment Act 2002? If not, the Tribunal must award two weeks' pay and may award four weeks' pay.
- 6.3 Would it be just and equitable to award four weeks' pay?

The law

How a contract is formed

- 9. As my conclusions below make clear, a fundamental issue in this case was in fact whether the parties had entered into a contract at all.
- 10. A contract is formed when the parties reach a legally binding agreement. The classic analysis identifies the following elements: (1) an offer, (2) acceptance of that offer, (3) consideration, and (4) an intention to create legal relations. Those elements are not a rigid checklist. They are tools by which the Tribunal determines whether, viewed objectively, the parties intended to enter into a binding agreement and agreed its essential terms.
- 11. Whether a contract has been formed is to be assessed objectively. The Tribunal is concerned not with the parties' subjective intentions but with what a reasonable observer would conclude from their words and conduct in the relevant context.
- 12. An offer is an expression of willingness to contract on specific terms, made with the intention that it is to become binding upon acceptance. An acceptance is a final and unqualified assent to the terms of that offer. Acceptance must correspond with the offer; if it introduces new terms, it will ordinarily amount to a counter-offer rather than acceptance.
- 13. Unless the offer specifically requires the acceptance to be communicated in a particular way — in which case the acceptance must be made in that way in order to be effective — acceptance can be express (in writing or oral) or implied by conduct. If an employee does not formally reply to an offer of employment but turns up for work, he or she will be taken to have accepted employment on the terms offered. However, while acceptance may be by conduct, there must be a final and

unqualified expression of assent to the terms of an offer, judged against an objective standard.

14. Consideration consists of something of value given or promised by each party. In the employment context, this will often be straightforward, consisting of work to be performed in return for remuneration, but its presence remains a necessary element of a binding contract.
15. There must also be an intention to create legal relations. In a commercial or employment context, there is ordinarily a presumption that such an intention exists, unless the evidence shows otherwise.
16. In practice, particularly in employment cases, the question of formation may not be answered by identifying a single moment at which offer and acceptance occurred. The Tribunal may instead be required to consider a course of dealings, including oral exchanges and conduct, to determine whether and when a binding agreement arose and what its terms were. There is of course no requirement that the offer or acceptance be in writing: a binding contract can be formed in a purely oral exchange.
17. Where the alleged contract is said to arise from informal communications or conduct, the Tribunal must examine the totality of the evidence. This may include the parties' subsequent conduct, which can be probative of whether they regarded themselves as bound and of the terms they understood to apply.

The starting point for whether someone who has entered into a contract is an employee or worker

18. The leading case on employment status is Uber BV v Aslam [2021] UKSC 5. The question of whether a person is an employee or worker is to be decided by whether they fall within the relevant statutory provisions "... irrespective of what had been contractually agreed. In short, the primary question was one of statutory interpretation, not contractual interpretation" (its [69]).

Employees (Employment Rights Act 1996)

19. The statutory language is nevertheless that of contracts. An employee is an individual who works under a contract of employment. This is defined by section 230 of the 1996 Act as a "contract of service or apprenticeship, where express or implied, and (if it is express) whether oral or in writing".
20. No single test for whether a contract is one "of service" is conclusive and the Tribunal must weigh up all the relevant factors and decide whether on balance the relationship between the parties is regulated by a contract of service. This approach was first taken in Ready Mixed Concrete (South East) Ltd v Minister of Pensions and National Insurance [1968] 2 QB 497 and has been developed in subsequent cases.
21. It is now clear that four essential elements must normally be present for there to be a contract of service:

- 21.1. A contract must exist between the employee and the alleged employer;
 - 21.2. The contract must impose an obligation on a person to provide work personally. However a limited power of substitute will not necessarily result in the conclusion that the contract was not one of employment. Equally, the Tribunal should look at the reality of the arrangements as opposed to concentrating on the written terms (Autoclenz Ltd v Belcher [2011] ICR 1157);
 - 21.3. There must be mutuality of obligation between employer and employee. That is to say, usually, an obligation on the employer to provide work and a corresponding obligation on the employee to accept and perform any work offered. Usually, if there are periods when there is no work to be done then in the absence of a retainer in such periods there will be no contract of employment (Clark v Oxfordshire Health Authority [1998] IRLR 125);
 - 21.4. There must be an element of control over the work by the employer. What is required is the ultimate ability of the employer to control the manner in which work is carried out. It is not necessary that the employee is subject to detailed day-to-day control (Troutbeck SA v White [2013] IRLR 949).
22. If these four essential elements are present, the contract may be one of service but the surrounding circumstances should be considered. Factors that may then be weighed in the balance can include:
- 22.1. Whether there is payment by wages or salary;
 - 22.2. Whether they are subject to the employer's disciplinary and grievance procedures;
 - 22.3. Whether they receive sick pay, contractual holiday pay or other benefits traditionally associated with employment (such as membership of a pension scheme);
 - 22.4. Whether the person doing the work provides their own equipment;
 - 22.5. Whether they hire their own staff;
 - 22.6. The degree of financial risk that they take in doing the work;
 - 22.7. Whether they have responsibility for investment and management and/or the opportunity of profiting from sound management in performing their tasks;
 - 22.8. Whether the work they do is an integral part of the alleged employer's business; and
 - 22.9. The intention of the parties.

23. These factors do not, however, represent a checklist: rather it is necessary to identify the significant details in the instant case and to look at the whole arrangement. However, as a general rule, the higher the degree of personal responsibility an individual takes in relation to matters of the kind listed above, the more likely it is that they will not be an employee.

Workers (Employment Rights Act 1996 and Working Time Regulations 1998)

24. The statutory definition of “worker” is wider than that of “employee”. A worker is defined by regulation 2 of the WTR and by section 230(3) of the 1996 Act as:

(3) In this Act “worker” mean an individual who has entered into or works under (or, where the employment has ceased, worked under)—

(a) a contract of employment; or

(b) any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual;

25. The Supreme Court considered who is a “worker” in Uber. Uber argued that its drivers performed services for the taxi customers, not for Uber, and this was clear from the contractual documentation. The drivers were not therefore “workers”. The Supreme Court disagreed. It concluded that:

25.1. As noted above, in cases in which worker status fell to be determined, the primary question was one of statutory (not contractual) interpretation;

25.2. It was inconsistent with the policy of protecting vulnerable persons via the wider definition of worker to make the written contract the starting point in deciding whether someone was a “worker”;

25.3. This was reflected in the existence of anti-avoidance provisions prohibiting contracting out;

25.4. Whether someone is a worker should be discerned from all the facts. The terms of a written agreement should not be ignored but there is no legal presumption that a contractual document contains the whole of the parties’ agreement and no absolute rule that terms set out in a contractual document represent the parties’ true agreement just because an individual has signed it;

25.5. A person can be an employee or worker only during periods of actual working, where the nature of the work is casual, unless the arrangement is simply too casual to qualify.

Parties' submissions

26. The parties each made oral submissions on the final day of the hearing which may reasonably be summarised as follows.
27. Ms Singh for the respondent submitted that no contract of employment was ever formed. What existed, at most, were ongoing commercial discussions contingent upon the successful acquisition and operation of the proposed restaurant, which never materialised. Draft contracts were exchanged but never concluded; there was no final agreement on essential terms, no payroll arrangements, no PAYE registration, and no commencement of employment. The claimant himself acknowledged in contemporaneous WhatsApp messages that there was no formal agreement in place. In those circumstances, the respondent submitted that the Tribunal should find that there was no legally binding contract.
28. The respondent further submitted that the claimant did not, in reality, perform work as an employee, but rather acted as a commercial intermediary or participant in a prospective business venture. The payment of £5,000 was said to be referable to consultancy, expenses, or project-related work, and not wages. The absence of mutuality of obligation, together with the lack of standard indicia of employment, was said to be fatal to the claim.
29. The claimant submitted that a binding contract of employment was formed, whether by express agreement or by conduct. He relied on the circulation and signature of contractual documents, the operation of what he described as an "auto-binding" clause, and the parties' subsequent conduct, including the performance of work from May 2025 onwards. He contended that he acted in the role of Operations Director, undertaking substantial responsibilities in relation to the proposed restaurant, and that this work was performed under the direction and control of the respondent as evidenced by contemporaneous WhatsApp communications.
30. The claimant further submitted that the £5,000 payment was properly characterised as wages or an advance on salary, and that his provision of payroll details and commencement of work were consistent only with an employment relationship. He relied on contemporaneous documents and witness evidence to support his account of day-to-day operational involvement and control. The claimant invited the Tribunal to find that he was employed and that he was entitled to the sums claimed.

Findings of fact

31. These findings of fact do not of necessity refer to all of the evidence that was before me.

The discussions in relation to Flamm restaurant and Gastroheroes

32. The claimant was introduced to Mr Singh and Mr Kumar in March 2025 by Mr Şenol, the owner of Flamm restaurant in Staines. Mr Şenol was hoping to sell the

restaurant to Mr Singh and Mr Kumar and thought that the claimant would be well placed to help Mr Singh and Mr Kumar with the process and then run the restaurant for them.

33. Following this introduction, the claimant provided a written proposal to Mr Kumar for his culinary consulting business, Gastroheroes, to provide a “Full-Scope Culinary & Operational Transformation of Flamm” (CB1 page 17). Under the proposal, the involvement of Gastroheroes would have been divided into three phases and lasted around three months. The fees, based on a half-day consultancy rate of £300, would have totalled between £7,800 and £9,000 (plus VAT). The proposal does not suggest that the claimant would be involved in the actual acquisition of the restaurant. It appears to set out the work he would do once the restaurant had been bought. The covering letter speaks of a “re-launch”.
34. The claimant’s CV (CB1 page 50) has the Gastroheroes webpage address at the top. It explains his work at Gastro Heroes on the second page, saying that it ran from January 2024 to October 2025. It is described as a “Restaurant Consultancy London”. He lists four “Key projects”, one of which is “Richmond Food & Supply Limited (multi-site launch plan)”.
35. Returning to the Flamm restaurant, the claimant became frustrated by the delay in the project proceeding and exited the WhatsApp group he was in to discuss it. On rejoining the WhatsApp group, having been asked why he had left, the claimant had commented that “Ozcan has already given up on giving you the restaurant, I have no work, I can’t sit idle. There’s no point wasting time. Call me if you buy another shop”. (Undated, CB1 page 55.) In the event, the purchase of Flamm by the Mr Singh and Mr Kumar did not go ahead. As such, and perhaps in light of the purchase of Flamm not going ahead, the consultancy arrangement proposed by Gastroheroes was never agreed between the parties.

The discussions in relation to the Locanda Luna restaurant and the claimant’s contract

36. Almost immediately Mr Kumar and Mr Singh raised the possibility of them starting a business in Staines. That would involve them buying the lease of the building housing the Locanda Luna restaurant in Staines. The claimant became involved in the project. The nature of his involvement was not initially documented and by mid-May the lack of clarity in relation to his position was a matter of concern for him. The long WhatsApp message of 15 May (CB1 page 57) to Mr Singh and Mr Kumar makes this clear. He refers to the fact that he has been working “on consultancy projects” “for a considerable period of time” and not doing other work. He notes:

However up to this point, no payment has been made for the services provided, and there is still a lack of clarity regarding the compensation structure moving forward.

Therefore I kindly request written confirmation of the following points.

37. Those points were payment for past services whilst he had been, he said, working on a consultancy basis and the “New Agreement Terms (Effective from May)”. He

queried whether he would be on payroll or invoiced as a consultancy fee. He concluded:

Clarifying these points is essential for me to proceed with the ongoing projects effectively and to plan the upcoming work accordingly.

38. It is therefore clear that as of 15 May 2025 the claimant had not agreed terms with the respondent in relation to his possible involvement with the Locanda Luna restaurant. The WhatsApp messages do not show a substantive reply to the claimant's request for clarity on 15 May 2025. I find, Mr Kumar and Mr Singh delayed responding because they did not wish to make any concrete commitment to the claimant. The claimant prepared a contract of employment for himself and sent it by WhatsApp to Mr Singh on 30 May 2025 (CB1, page 58). The claimant in his oral evidence said he had done this because "we waited a long time for the solicitors to prepare a contract".
39. The version of the contract that the claimant says was attached to his message was the contract at page 27 of CB1, which the claimant referred to as "version 3". This is the version of the contract that the claimant says the respondent is bound by. Amongst other things, the contract states that:
- 39.1. "This agreement ...shall be effective from the date of the last signature" (CB1 page 27);
- 39.2. "This agreement commences on 1 May 2025" (CB1 page 27);
- 39.3. That a "one-time gross payment of £5000" would be "payable within 7 days of the signing of this Agreement" because of "key services" rendered during May 2025.
40. "Version 3" is not signed by either party. Underneath the space for signatures, the following words appear:
- 17. Provisional Agreement Status*
- This Agreement is entered into as a provisional pre-contract, outlining the main terms agreed upon by both parties.*
- Both parties agree to sign the final and binding employment contract within 7 calendar days from the date of this Agreement.*
- If the final contract is not signed within this period, this provisional contract shall automatically become permanent and legally binding.*
41. As such, by mid-May the claimant had made an offer which, if accepted, would have resulted in him being an employee of the respondent retrospectively from 1 May 2025. The respondent did not reply accepting or rejecting the offer. Consequently, the claimant sent a follow-up WhatsApp to Mr Singh of the respondent on 11 June 2025 saying:

Hi Avishek, how are you today? I know you are very busy, but I need to ask again. Did you get the contract? I have a lot of things to do, but I can't concentrate on my work because I keep arguing with my wife. Please let's resolve this issue as soon as possible. (CB1 page 58).

42. As such, it is clear that the respondent had not accepted the terms put forward by the claimant on or before 11 June 2025. Soon thereafter, the respondent sent a draft contract to the claimant which had been signed on behalf of the respondent (CB1 page 22). This was not the same as the contract sent to the respondent by the claimant on 30 May 2025. The version sent to the claimant includes the following provisions:

- 42.1. "This agreement ...shall be effective from the date of the last signature";
- 42.2. "This agreement commences on 1 July 2025";
- 42.3. An annual salary for the first four months of £50,000.

43. There was no provision in this contract for the payment to the claimant of £5,000 as set out at [39.3] above. Ms Chandrima Singh signed the contract on behalf of the respondent (CB1 page 26). The claimant did not, however, accept the contract terms and sign. Under the space of signatures, the following wording appears:

17. Provisional Agreement Status

This Agreement is entered into as a provisional pre-contract, outlining the main terms agreed upon by both parties.

Both parties agree to sign the final and binding employment contract within 7 calendar days from the date of this Agreement.

This is in principle terms which will be turned into employment contract within 7 working [sic]

44. As such, the respondent in effect rejected the offer made by the claimant on 30 May and made its own counter offer. The claimant did not accept this counter offer. Instead, he amended the contract sent to him by the respondent and emailed them a revised version on 16 June 2025 stating (CB1 page 58):

I have made a few changes. We can remove the fourth article in the contract or do it outside the contract, but we must definitely solve it. As you know, I have been working for a long time. I have prepared almost everything in advance for a month and a half, so we can start quickly without wasting time.

45. The claimant says that the changes he made resulted in the contract being the same as the contract he had sent to the respondent on 30 May 2025 – that is to say, the contract at page 27 of CB1. The claimant says that in a meeting on 4 July 2025 it was agreed that he would be employed under the terms of "version 3". He says that on that date the respondent made a payment of £5,000 to him and sent him a starter check list. The respondent denies that the claimant's counter offer of

16 June 2025 was accepted by its terms being agreed in the meeting on 4 July 2025.

The work the claimant did between May and August 2025

46. I find that the claimant did a substantial amount of work in relation to the intended opening of the Locanda Luna restaurant in the period May to August 2025, particularly in July. To the extent that this requires me to prefer the evidence of the claimant to that of the respondent, I do so because his evidence as set out in his witness statement, with substantial cross-referencing to contemporaneous WhatsApp messages, was more detailed than that of the respondent.

47. I find that during this period the claimant:

- 47.1. Was involved in the negotiations for the purchase of the restaurant;
- 47.2. Oversaw the renovation of its interior;
- 47.3. Arranged for the purchase of kitchen and front of house equipment;
- 47.4. Established a supply chain for provision of wine and food;
- 47.5. Organised the recruitment of staff;
- 47.6. Oversaw marketing (including digital marketing);
- 47.7. Was involved in business and financial planning;
- 47.8. Was involved in dealing with the aftermath of the fire in mid August 2025.

48. I find that he oversaw the work necessary for the restaurant to be opened in mid to late August. I find that, but for the fire, the restaurant would have opened in that period, as the respondent's witnesses broadly accepted in their evidence.

Communications showing how the claimant described his relationship with the respondent contemporaneously

49. The claimant has included in the bundle a "statement" from Lulzim Regica, the owner of the Locanda Luna restaurant that there were negotiations to buy. This largely consists of WhatsApp messages between him and Mr Regica. It is notable that:

- 49.1. On 8 May 2025 he refers to the respondent as "my clients" – "my clients want to meet and talk with you about the proses" [sic] (CB1 page 39);
- 49.2. On 10 May 2025 he refers to himself as "the man in the middle" and that is also reflected in the content of the message. He refers to the respondent and says "they can't stop bargaining". He is portraying himself as apart from the respondent, not as integrated into its organisation;

- 49.3. On 3 June 2025 he says “We still haven’t signed the contract. I still haven’t received any payment from them. ... So I stopped providing any services” (CB1 page 42);
- 49.4. On 16 May 2025, Mr Regica writes to the claimant “For instance, do your clients have a business plan that they could share?” (CB1 page 44);
- 49.5. On 3 July 2025, he writes “Hello Luli, I hope everything is going well, I quit my job yesterday. You are a witness to what I have been doing for the past two months, They haven’t paid me a penny yet. I have decided to stop working with them” (CB1 page 45).

Findings about what happened on 4 July 2025

50. I make the following findings in relation to (1) whether any agreement was reached on 4 July 2025; (2) if an agreement was reached, the terms agreed.

51. I find that at the meeting on 4 July 2025 the claimant agreed with the respondent that he would be employed with effect from 1 July 2025 on the terms set out in the document sent by the respondent to the claimant sometime between 11 and 16 June 2025 (CB1 page 22). I make these findings for the following reasons. Turning first to the fact of an agreement being reached:

51.1. It is clear (see [49.5] above) that the claimant had decided to stop working with the respondent on 3 July 2025. However, the same string of WhatsApp messages shows that he changed his mind on the following day and decided to continue working with the respondent. On 4 July 2025, he wrote to Mr Regica (CB1 page 45):

I am at a meeting in Richmond I will come to you in 30 minute. If you are available. The problem is solving now. I am continuing.

51.2. This points towards an agreement having been reached with the respondent on 4 July 2025 in relation to the terms on which the claimant would be engaged.

51.3. The messages with Mr A Singh on 4 July 2025 also point to an agreement having been reached on that date. The messages show (CB1 page 58) a meeting being scheduled for midday and then, at 12.56pm, Mr Singh forwarding a link resulting from a google search to the claimant just after the meeting, the description of which read as follows:

Use the checklist if you start a new job or have been sent to work in the UK, so your new employer can complete their PAYE payroll. Source: GOV.UK

51.4. This points towards an agreement having been reached in the meeting about the employment of the claimant.

- 51.5. The WhatsApp messages on 7 July 2025 between the claimant and Mr Singh show the respondent agreeing to make a payment to the claimant. The claimant says in response (CB1 page 59):

Thank you very much. Also, can we sign the final version of the contract and finalise this matter.

- 51.6. This also points towards an agreement having been reached.

- 51.7. There are further WhatsApp messages (CB1, page 59) pointing to an agreement having been reached, with the claimant providing evidence of his right to work in the UK. Again this points towards an agreement having been reached on 4 July 2025 as does the claimant providing Mr Singh with information in relation to his income tax on 5 July 2025 (CB1, page 59).

52. Turning to the terms agreed, I have found that it was agreed that they would be those set out in the document sent by the respondent to the claimant between 11 and 16 June 2025 (CB1 page 22) for the following reasons:

- 52.1. That is the document sent by the respondent to the claimant at 13.16 on 4 July 2025 shortly after the meeting concluded. The message reads "This one" and the attached document is named "EMPLOYMENT CONTRACT V3-2". That is the name given by the claimant when compiling CB1 to the document sent to the claimant between 11 and 16 June 2025;

- 52.2. In light of the history of the negotiations, and the initial consultancy proposal, it is unlikely that the respondent would as of 4 July 2025 have agreed to retrospectively pay (and so employ) the claimant from 1 May 2025;

- 52.3. Further, it is unlikely that the respondent would have both agreed to pay the claimant as an employee from 1 May 2025 and make a payment of £5,000 on 7 July (which was in fact made on 9 July 2025).

- 52.4. Rather it is more likely that a compromise was reached: the claimant would be paid £5,000 in respect of work done prior to 1 July 2025, as envisaged by the draft contract he had provided on 30 May 2025, but his actual employment would be regarded as having begun on 1 July 2025.

53. To the extent that these findings require me to resolve conflicts in the evidence, I have preferred the evidence of the claimant at various points because his evidence was more detailed and more consistent with the contemporaneous documents (primarily the WhatsApp messages) than that of the respondent's witnesses.

The fire at Locanda Luna restaurant and what happened after that

54. I find that contracts were exchanged on the purchase of the lease of Locanda Luna on 11 July 2025. It is not entirely clear whether the transaction completed prior to the fire occurring in mid-August, but, as I have found above, much work was done in July on the basis that the restaurant would be opening in mid to late August.

55. The fact of the fire meant that the restaurant could not be opened. I find that following the fire, the respondent decided that it did not wish to open another restaurant in the near future under the supervision of the claimant as its Operations Director. I find that, faced with what was undoubtedly a complicated and unfortunate situation, the respondent stopped communicating with the claimant. This is reflected in the fact that it did not respond to his message suggesting an alternative location for a restaurant sent to it on 2 September 2025 which concluded (CB1 page 60):

Please give me your feedback, positive or negative. Ultimately we are both professionals; you can also terminate my contract, and I will understand. But everything must be clear.

56. I find that the claimant resigned on 3 September 2025, having received no response to his email of 2 September 2025.

Conclusions

Employment status

1. Employment status

1.1 *Was the claimant an employee of the respondent within the meaning of section 230 of the Employment Rights Act 1996 between 1 May 2025 and 3 September 2025?*

1.2 *Alternatively, was the claimant a worker of the respondent within the meaning of section 230 of the Employment Rights Act 1996?*

57. I conclude that the claimant was neither a worker nor an employee of the respondent in the period 1 May 2025 to 30 June 2025. I find that during this period there was no contract between the claimant and the respondent. In light of my findings of fact above, during this period there were discussions between the parties in relation to the terms upon which the claimant *might* be engaged. The discussions initially focused on the claimant providing consultancy services through his business Gastroheroes, and then moved on in May to the possibility of him being an employee, albeit one with a significant equity stake in the business: see clause 6 of the document sent to the claimant by the respondent (CB1, page 22). I find that the fact that the claimant was prepared to carry out some work during the period prior to 1 July 2025 reflected not any contractual agreement between himself and the respondent but, rather, his hope that if an agreement were reached it would give him a significant equity stake in the business that was to be established.

58. I have found above both that an agreement was reached on 4 July 2025 to take effect from 1 July 2025 and that its terms were as set out in the document sent to the claimant by the respondent which is at page 22 of CB1.

59. The respondent argued that this could not be right because that document was a pre-contract and that it was not binding until signed by both parties. However, I do

not conclude that that *was the contract*, but rather that its contents reflect the contract agreed between the parties on 4 July 2025. It is of course the case that a contract of employment need not be in writing.

60. I have concluded that the contract agreed was a contract of employment for the following reasons:

- 60.1. The terms agreed clearly imposed an obligation on the claimant to provide work personally. They contain no power of substitution;
- 60.2. There was clearly mutuality of obligation;
- 60.3. Although the claimant was employed in a senior capacity, there was clearly an element of control, as demonstrated by the WhatsApp messages in which he, for example, seeks authority for particular items of expenditure;
- 60.4. Further, I have taken into account the following points:
 - 60.4.1. The terms agreed required a salary to be paid;
 - 60.4.2. The claimant did not provide his own equipment;
 - 60.4.3. He did not hire his *own* staff;
 - 60.4.4. He took no real financial risk;
 - 60.4.5. The work he did was an integral part of the respondent's business;
 - 60.4.6. The documentation prepared suggests that the parties' intention was that the relationship should be one of employment.

Unauthorised deductions/breach of contract

2. *Unauthorised deductions/breach of contract*

- 2.1 *If the claimant was either an employee or a worker of the respondent, did the respondent make unauthorised deductions from the claimant's wages and if so how much was deducted?*
- 2.2 *The claimant contends that he was employed under a contract of employment entitling him to a salary of £65,000 and that he was not paid for the period 1 May to 3 September 2025. He claims 4.1 months salary which he calculates as follows: £5416.67 x 4.1 = £22208.35 minus £5000 - £17208.33.*
- 2.3 *The claimant further contends that the respondent made unauthorised deductions/acted in breach of contract by failing to pay 3% in pension contributions.*

61. In light of my conclusions above, the claimant was entitled to be paid for the period 1 July to 3 September 2025. That is a period of two months and three days. It can reasonably be seen as a period 2.1 months.
62. The term agreed as to salary was that he would be paid £50,000 annually (clause 5 of the document containing the terms agreed on 4 July 2025). As such, the amount due in salary before deductions is: £50,000 divided by 12 multiplied by 2.1 = £8,750 (gross). I therefore award that amount as an unauthorised deduction from wages.
63. The term agreed in respect of pension contributions was 3% of salary. Consequently, the amount due in respect of the period was £8,750 x 3% = £262.50. There may be some debate as whether this can be dealt with as an unauthorised deduction from wages and so I award it under the head of damages for breach of contract, the claim having been pleaded in the alternative.

Wrongful dismissal

3. ***Wrongful dismissal / Notice pay***

3.1 *If the claimant was an employee, what was the claimant's notice period?*

3.2 *Was the claimant constructively dismissed? The Tribunal will consider:*

3.2.1 *Did the respondent fail to pay the claimant the salary due to him under his contract of employment?*

3.2.2 *Did that breach the implied term of trust and confidence? The Tribunal will need to decide:*

3.2.2.1 *whether the respondent behaved in a way that was calculated or likely to destroy or seriously damage the trust and confidence between the claimant and the respondent; and*

3.2.2.2 *whether it had reasonable and proper cause for doing so.*

3.2.3 *Alternatively, did that breach the express term of his employment relating to salary? If so, was the breach a fundamental one? The Tribunal will need to decide whether the breach was so serious that the claimant was entitled to treat the contract as being at an end.*

3.2.4 *Did the claimant resign in response to any breach? The Tribunal will need to decide whether the breach of contract was a reason for the claimant's resignation.*

3.2.5 *Did the claimant affirm the contract before resigning? The Tribunal will need to decide whether the claimant's words or actions showed that they chose to keep the contract alive even after the breach.*

3.2.6 *If not, what damages are payable to the claimant for breach of contract? The claimant contends that he should receive 3 months pay*

at £5416.67/month = £16250, on the basis that he had a notice period of three months and a further 3% in respect of pension contributions. The claimant was under an obligation to mitigate their loss. They found alternative employment. Any damages payable will be reduced by the amount the claimant earned during what would have been his notice period.

64. The terms agreed provided for a two month notice period during the first three months of employment so that was the claimant's notice period as the employment did not last three months. The claimant's notice period should therefore have run from 4 September to 3 November 2025, a period of two months.
65. The respondent failed to pay the claimant his salary in either July or August. That was both a breach of the implied term of trust and confidence and a breach of an express term of his contract. The breach was repudiatory: the payment of a salary is one of the most fundamental breaches of a contract of employment that can occur. That is also why it was a breach of the implied term of trust and confidence.
66. I conclude that the failure to pay the claimant was one of the claimant's reasons for resigning. This was reflected in his evidence in relation to this issue, which I accepted, and in his letter before action sent following his resignation.
67. I conclude that the claimant did not affirm the contract. He acted promptly following the second non-payment of wages.
68. Turning to the damages due to the claimant, two months pay and the value of two months' pension contributions would have amounted to:
- 68.1. £50,000 divided by twelve months, multiplied by two months and increased by 3% (pension contributions) = £8,583.33
- 68.2. However, the claimant found other work during his notice period. In the period 4 September 2025 to 3 November 2025, I find he earned (having regard to the contents of CB2) a salary of £50,000 per annum from 13 October 2025 (CB2 page 4) until 3 November 2025. I find his new employer did not pay pension contributions in this initial period in light of the payslips provided.
- 68.3. The claimant therefore earned £50,000 per annum for 22 days. The gross pay received was therefore £50,000 divided by 365 multiplied by 24 = £3,013.70.
- 68.4. The claimant received no other sums in what would have been his notice period and clearly took reasonable steps to mitigate his losses (and indeed the respondent did not argue otherwise).
- 68.5. The claimant's gross loss in respect of his notice period was therefore £8,583.33 - £3,013.70 = £5,569.63.

Holiday pay

4. Holiday Pay (Working Time Regulations 1998)

- 4.1 *If the claimant was either an employee or a worker of the respondent, did the respondent fail to pay the claimant for annual leave the claimant had accrued but not taken when their employment ended?*
- 4.2 *The claimant contends that he was entitled to holiday pay calculated as follows: 4.1 months worked plus 3 months notice x 28/12 = 16.57 days @ £250.00/day = £4141.67.*

69. The claimant was employed from 1 July 2025 to 3 September 2025, a period of 65 days. The correct calculation of the holiday pay due to him under regulation 14, taking into account that I find he took no holiday during that period, was: $5.6 \times 65/365 = 0.997$ week's pay.

70. The claimant was a salaried employee. As such the amount due is £50,000 divided by $52 \times 0.997 = £958.65$ gross.

5. Acas uplift

- 5.1 *Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?*
- 5.2 *Did the respondent unreasonably fail to comply with it?*
- 5.3 *If so is it just and equitable to increase or decrease any award payable to the claimant? By what proportion, up to 25%?*

71. When asked at the hearing on 8 April 2026 how the respondent had failed to comply with the Acas Code the claimant said "they did not cooperate or communicate with me". When pressed, he was unable to be more specific. I find that the claimant did not raise a grievance as envisaged by paragraph 32 of the Acas Code before resigning. The respondent did not therefore unreasonably fail to comply with the Acas Code of Practice in relation to Disciplinary and Grievance Procedures and I award no uplift.

6. Written statement of particulars

- 6.1 *When these proceedings were begun, was the respondent in breach of its duty to give the claimant a written statement of employment particulars or of a change to those particulars?*
- 6.2 *If the claim succeeds, are there exceptional circumstances that would make it unjust or inequitable to make the minimum award of two weeks' pay under section 38 of the Employment Act 2002? If not, the Tribunal must award two weeks' pay and may award four weeks' pay.*
- 6.3 *Would it be just and equitable to award four weeks' pay?*

72. I have concluded above that whilst the document sent by the respondent to the claimant sometime between 11 and 16 June 2025 (CB1 page 22) was not his contract of employment it did reflect the terms agreed between the parties on 4 July 2025 and did contain the information required by section 1 of the 1996 Act. Accordingly, the respondent was not in breach of its duty and no amount is due under section 38 of the Employment Act 2002.

Approved by:
Employment Judge Evans
Date: 7 July 2026

Sent to the parties on:
Date: 8 July 2026

Notes

Judgments (apart from judgments under rule 51) and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

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/