



EMPLOYMENT TRIBUNALS

Claimant: Miss A Hutchinson
Respondent: F2L Investments Ltd
On: 27, 28, 29 and 30 April 2026
Before: Employment Judge Ahmed (sitting alone)
At: Leicester

Representation

Claimant: In person
Respondent: Mr Nehi Aimufua (Legal Executive)

JUDGMENT

JUDGMENT having been sent to the parties on 11 June 2026 and written reasons having been requested in accordance with Rule 60(4) of the Employment Tribunals Procedure Rules 2024, the following reasons are provided.

REASONS

1. In these proceedings the Claimant brings complaints of disability discrimination, breach of contract and an unlawful deduction of wages. The complaint of disability discrimination, as identified in the earlier case management order, is of discrimination arising from disability.
2. The Claimant was employed by the Respondent as a Senior Residential Support Practitioner from 2 May 2024 to 12 June 2024. She began ACAS early conciliation on 1 July 2024 and obtained an ACAS early conciliation certificate on 12 August 2024. The Claim form was presented to the Tribunal on 12 August 2024.
3. The Claimant was contracted to work 173 hours a month, at a rate of £14.00 per hour, with sleep-in shifts paid at £50.00 per session.
4. The Respondent is a small business which had approximately 12 employees at the time of the events in question. The Respondent provides Residential and Nursing Care facilities. The Registered Manager at the relevant time was Ms Louise Letts. The 'Responsible Individual' was Mr James Marsh. The Operations Director is now Mr Charles Chivi.

5. The Claimant was employed to care for a boy aged 14. I shall refer to him as 'YP' which to avoid any speculation stands for 'young person' and are not his initials. He appears to have been a particularly challenging individual.

6. At this hearing I heard oral evidence from the following:

6.1 The Claimant;

6.2 Mr Charles Chivi;

6.3 Mr Hlalisekani Hlabangana (who is also referred to as 'Richard' in some of the documentation). Mr Hlabangana was employed as a Residential Support Worker. He is no longer employed by the Respondent having been dismissed for matters involving the same series of events as the Claimant though for different reasons.

7. The Claimant has throughout these proceedings represented herself. The Respondent has been represented by Croner and by Mr Nehi Aimufua at this hearing. I am grateful to both the Claimant and Mr Aimufua for their assistance to the Tribunal.

8. Prior to this hearing and on the application of the Respondent, the Tribunal had issued Witness Orders against Mr James Marsh and Ms Louise Letts, to attend the hearing and give evidence. Both of them are former employees of the Respondent. Unfortunately, neither of them attended the hearing nor did they make any application to set aside the orders. I was not invited to refer the matter to the Regional Employment Judge for any sanction.

9. The Claimant suffers from Lupus Nephritis, a disorder in which the immune system attacks the kidneys. She also suffers from Arthritis. The Respondent does not dispute that the Claimant suffers from these disabilities but does dispute that it had actual or constructive knowledge of them.

10. The case concerns an incident which occurred on 5 June 2024. There is a dispute about the facts. I shall set out only my findings rather than the disputed versions.

11. On 5 June 2024 it was agreed that the Claimant, Mr Hlabangana and YP would go shopping to an Asda Store at Fosse Park in Leicester. This was a few miles away and would involve a short car journey. The Claimant was to drive. Mr Hlabangana installed himself in the front passenger seat. YP however wanted to sit in the front seat. YP opened the door and insisted Mr Hlabangana should go in the back. Mr Hlabangana said YP must sit in the back for health and safety reasons. YP became abusive. Mr Hlabangana told YP that if he did not sit in the back they would cancel the trip. Eventually the YP got into the car and sat in one of the rear seats.

12. Still annoyed, YP became aggressive during the journey. He threatened Mr Hlabangana saying he was going to stab him and also stab his son. He asked which school his son went to. Failing to provoke a reaction YP took Mr Hlabangana's cap and threw it out of the car. The Claimant told YP this was unacceptable behaviour and if he continued in this way they would head back. Mr Hlabangana however said there was no need to do that and they should proceed to Asda. It appeared to be common ground at the hearing that in hindsight to return to base might have been a wise decision.

13. When they arrived at the Asda car park Mr Hlabangana opened the rear car door but YP refused to get out of the car. He was asked several times until suddenly YP jumped out and struck Mr Hlabangana in the face. Mr Hlabangana blocked the next punch and grabbed YP under his left arm to restrain him. When this failed, Mr Hlabangana grabbed YP by the chin and pushed him into the back of the car. YP continued to be physically aggressive. The Claimant told Mr Hlabangana to move away. YP then got out of the car and said: *'watch man, imma steal a knife and I'm coming to stab you up'*. YP then headed in the direction of the Asda store.

14. The Claimant immediately contacted the office and spoke to her manager, Ms Letts. She explained that YP had threatened to obtain a knife from the Asda store and had threatened to stab Mr Hlabangana with it. Ms Letts advised the Claimant that if YP did get hold of a knife she should call the police. It is not clear whether she was instructed to follow YP into the store but that is what the Claimant did. Upon entry into the store the Claimant contacted Asda security. She also followed YP round the store whilst YP kept telling her to go away. The Claimant went outside to update Ms Letts on what was happening. On her return she noted that YP had not obtained a knife but was consuming a box of chicken which he had not paid for. The Claimant went and paid for the food. By now YP appeared somewhat calm and contrite. However, he refused to get in the car with Mr Hlabangana. Eventually, after allowing him to sit in the front, all three managed to return to base without further incident.

15. The following day there was a team meeting when the incident was discussed. The Claimant was not asked to write up a formal report although there is a written statement in the bundle which is both unsigned and undated at pages 81 – 83. I am satisfied that this is the Claimant's account of the incident although she does not have any memory of producing it. It is not clear when this was prepared. There is nothing in the Respondent's procedures which requires an immediate written report to be produced when incidents such as this occur.

16. On 9 June 2024 the Claimant was asked to produce a formal log of the incident by Ms Samantha Jacobs, the Deputy Manager. Ms Jacobs was not called by either party to give evidence. The Claimant explained that she could not do so immediately but would do as soon as possible. The incident log was completed on 10 June.

17. On 11 June 2024 Mr Hlabangana was suspended pending an investigation. The following day he was dismissed for gross misconduct.

18. On 12 June 2024 the Claimant was suspended and dismissed on the same day. There are two notices of dismissal. The first is an email from Ms Jacobs dated 12 June 2024 timed 13:38. Neither party has however produced the original email. There is a photocopy of a document with an email printed out which reads as follows:

"In the light of recent event on 05.06.2024 F2L investment will be terminating your employment with immediate effect.

Following your delay reporting the events that took place on 05.06.2024.

The decision was made using the Staff Disciplinary, Grievance & Appeals Procedure.

The actions that you took are seen as Gross Misconduct: This includes actions that are severe and violate fundamental policies or law such as: 1. Abuse or neglect of residents 2. Theft or fraud 3. Physical violence or threats 4. Serious breaches of confidentiality. 5. Substance abuse while on duty

Kind regards”

19. There is a further notice or letter of dismissal which appears in the bundle. It is on headed notepaper and is dated 13 June 2024. The letter is unsigned and is as follows:

Re: Notice of Dismissal

I am writing to formally address serious concerns regarding your conduct and actions in relation to the incident that took place on 05/06/24. After thorough investigation and consideration, it has been determined that there were critical failures on your part, which have led to this decision.

1. Failure to Appropriately Intervene:

It has been established that you did not appropriately intervene during the incident on 05/06/24. Your inaction in this situation was contrary to the expected standard of care and duty required in your role. This failure to act compromised the safety and well-being of the young person involved.

2. Failure to Report Accurately and Timely:

Additionally, you did not report an accurate account of the incident in a safe and timely manner. This delay and inaccuracy in reporting potentially put the young person at further risk and hindered the ability to take immediate and necessary actions to address the situation appropriately.

Given the seriousness of these breaches of conduct, which are fundamental to the safeguarding and protection of those in our care, we have no alternative but to terminate your employment with immediate effect dated 12/06/24.

We understand the impact this decision may have, but the safety and well-being of the young people we care for must always be our top priority. You will receive your final wage along with any accrued benefits as per the terms of your employment contract. Should you wish to discuss this matter further, you may contact....

We thank you for your contributions during your time with us and wish you the best in your future endeavours.

Sincerely,
F2L Invest (sic)

20. Mr Chivi is adamant that the correct notice of dismissal is that of 12 June and not the letter of 13 June. He is unable to provide an explanation as to how the second letter of dismissal came about. The decision to dismiss was that of Mr Chivi alone.

21. On 12 June 2024, there was a referral by Ms Jacobs to the LADO officer (Local Authority Designated Officer). The outcome of the referral is not known.

22. Clause 3 of the Claimant's contract of employment is headed 'Probation' and states:

“The first 6 months of your employment is a probationary period. During the first 4 weeks of the probation period either party may terminate employment without notice. After the first 4 weeks and until the end of your probationary period you or the Company may terminate your employment by

giving one week's written notice. The probationary period may be extended at the Company's discretion in which case you will be advised accordingly."

23. The Claimant's complaint of an unlawful deduction of wages is primarily on the basis that she was entitled to guaranteed hours of 173 per month at £14 per hour. She calculates the shortfall to be 98 hours. There was also an allegation that the Respondent unlawfully deducted £150 from her wages for damage to a company car. This sum has now been paid.

THE ISSUES

24. The issues to be determined in these proceedings are as follows:

Time limits

24.1 Was the claim brought in time and if not, is it just and equitable to extend time?

Discrimination arising from disability

24.2 Did the Respondent treat the Claimant unfavourably by dismissing her for failing to do more physically to deal with the incident with YP in June 2024?

24.3 Did the Claimant's inability to intervene physically during the incident on 5 June arise in consequence of her disability?

24.4 Did the Respondent know or could it reasonably have been expected to know that the Claimant had the disabilities? If so, from what date?

Wrongful dismissal/Notice pay

24.5 What was the Claimant's notice period?

24.6 Did the Claimant do something so serious that the Respondent was entitled to dismiss without notice?

Unauthorised deductions

24.7 Is the Claimant entitled to the guaranteed hours or wages as claimed?

THE LAW

25. Section 15 of the Equality Act 2010 is headed 'discrimination arising from disability' and states:

"(1) A person (A) discriminates against a disabled person (B) if—

- (a) A treats B unfavourably because of something arising in consequence of B's disability, and
- (b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim.

(2) Subsection (1) does not apply if A shows that A did not know, and could not reasonably have been expected to know, that B had the disability."

26. Article 3 of the Employment Tribunals Extension of Jurisdiction (England & Wales) Order 1994 states:

"Proceedings may be brought before an employment tribunal in respect of a claim of an employee for the recovery of damages or any other sum (other than a claim for damages, or for a sum due, in respect of personal injuries) if—

- (a) the claim is one to which section 131(2) of the 1978 Act applies and which a court in England and Wales would under the law for the time being in force have jurisdiction to hear and determine;
- (b) [not relevant]
- (c) the claim arises or is outstanding on the termination of the employee's employment."

27. The classic definition of what constitutes conduct amounting to gross misconduct was set out in **Laws v London Chronicle (Indicator Newspapers) Ltd** [1959] 1 WLR 698, where Lord Evershed MR, at p.700, said:

"It follows that the question must be – if summary dismissal is claimed to be justified – whether the conduct complained of is such as to show the servant to have disregarded the essential conditions of the contract of service."

CONCLUSIONS

Disability discrimination complaint

28. The act of unfavourable treatment (dismissal) occurred on 12 June 2024. The Claim was presented to the Tribunal on 12 August 2024. The Claim is therefore in time.

29. I am satisfied the Respondent had knowledge of the disabilities. They were clearly set out in the application form when the Claimant applied for the role. The document was inexplicably excluded from the bundle but during the course of the hearing the Claimant emailed this to the Tribunal. I am therefore satisfied the Respondent therefore had knowledge of the disabilities at all material times.

30. The Claimant's case in relation to the unfavourable act (dismissal) is that she was expected to intervene but given her disabilities, in particular her arthritis, she was unable to do so. Accordingly, this was unfavourable treatment arising from her disability.

31. I do not accept the Claimant's argument that any intervention expected was to be of a physical nature. 'Intervention' in this context meant calming the person down, not physical restraint. There was no expectation that the Claimant should physically intervene. The Claimant's disabilities were irrelevant to the issue of intervention. The Respondent's criticism was of failure to de-escalate or manage the situation. That is not something which arose in consequence of the Claimant's disabilities. The criticism was wholly unrelated to any physical limitations arising from the Claimant's condition. The complaint of disability discrimination is therefore dismissed.

Breach of contract/notice pay complaint

32. There is no doubt that the claim for breach of contract arose or was outstanding on the termination of employment.

33. The key question for the Tribunal is whether the Claimant's conduct disregarded her essential conditions of service. Put another way, was her conduct such that the Respondent could no longer (objectively) have any trust and confidence in the continued performance of her duties?

34. The dismissal notice on which Mr Chivi actually relies makes no sense. It merely recites potential acts of gross misconduct rather than those that apply. The second notice of dismissal – of 13 June – is much more detailed yet that is not the one relied on.

35. Even if one takes the reasons for gross misconduct set out in the 13 June letter neither of them warrant justification for summary dismissal. The letter does not state what 'appropriate intervention' would have been. The Claimant was taking instructions from Ms Letts during the crucial events when YP threatened to go and steal a knife. She was not told of any other intervention that was appropriate nor given any specifics.

36. There is no evidence of the Claimant being asked to report the matter in writing earlier than 9 June. The delay of one day hardly justified dismissal. There was a meeting the day after the events of 5 June when the Claimant reported the matter to the team orally. It is not clear how any delay in completing a formal log impacted on the safeguarding and protection of the individual.

37. I am not satisfied that the Respondent has provided true or genuine reasons for dismissal. I am satisfied that the reasons given for dismissal – whether they were those set out in the first notice or the second – are nothing other than a sham. They are not made out on the facts. There is nothing to suggest that the Claimant's conduct demonstrated a disregard of the essential terms of service or that the Respondent could justifiably lose trust and confidence. The complaint of breach of contract succeeds. The Claimant is entitled to damages for the period of notice under her contract.

38. I am satisfied, as the Claimant now accepts after being taken to the relevant provision in her contract, that the correct period of notice she was entitled to was one week as she was still within her probationary period. The Claimant's average working week would have been 40 hours which at £14 per hour comes to £560. The Claimant would also be paid for at least two sleep-ins at £50 each giving a total gross figure of £660. Applying a tax rate of 20% the tax liability is £132.00. This leaves a net figure of £528 excluding national insurance. The correct amount for national insurance is not clear but whatever it is the Respondent agrees to bear it. The Respondent shall therefore pay the Claimant £528 as damages for breach of contract.

Wages claim

39. There is no provision in the contract of employment for guaranteed hours of work. There was no oral agreement to that effect either.

40. The Claimant had indicated earlier that she felt the Respondent may have miscalculated some of her salary payments. There is no evidence nor any explanation of where or what the miscalculation might be.

41. Although not set out in the original list of issues, the Claimant says in her witness statement that deductions were made from wages for morning handovers. Again, there is no evidence of this. Moreover, this has never been part of the Claimant's pleaded case.

42. I am satisfied there has been no unlawful deduction of wages and that complaint is therefore dismissed.

Approved by:

Employment Judge Ahmed

Date: 14 July 2026

JUDGMENT SENT TO THE PARTIES ON
16.07.2026

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Hrishiraj Pramanik

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FOR THE TRIBUNAL OFFICE

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