



EMPLOYMENT TRIBUNALS

Claimant: M Hall
Respondent: Modern Architectural Stone Limited

HELD AT: Newcastle by CVP **ON:** 29-30 April 2026
BEFORE: Employment Judge Aspden

REPRESENTATION:

Claimant: In person
Respondent: Mr Roberts, counsel

JUDGMENT having been sent to the parties on 18 May 2026, and written summary reasons having been requested on 18 May 2026 and provided on 6 July 2026 in accordance with Rule 60(4B) of the Employment Tribunals Rules, and written full reasons then having been requested in accordance with Rule 60(4C) of the Employment Tribunals Rules on 6 July 2026, the Tribunal provides the following:

FULL REASONS

Claims and issues

1. The claimant makes the following claims:
 - 1.1. A complaint that the respondent unfairly dismissed him.
 - 1.2. Complaints that the respondent made unauthorised deductions from his wages.

The unfair dismissal claim

2. Mr Hall confirmed at the outset of the hearing that his case is that he resigned on 24 February 2025. His case is one of constructive dismissal. He is not claiming that he was directly dismissed by the respondent.
3. Mr Hall's case is that he resigned because of the following things he says Mr Rees did:
 - 3.1. On 12 February 2025 (after Mr Hall had handed in his work phone and keys following a conversation with Mr Rees) Mr Rees changed the PIN number of Mr Hall's work laptop so that he could not use it and disabled his Unify account thereby removing access to the building and security cameras.

- 3.2. Subsequently Mr Rees lied about the reason Mr Hall could not access his desktop and the reason his building access had been removed, claiming there had been a power outage or power surge.
- 3.3. Mr Rees then failed to reinstate Mr Hall's access to the building and failed to remind him of the password to his desktop computer when Mr Hall asked him.
- 3.4. Mr Rees would not allow Mr Hall to work from home and falsely accused him of going AWOL on 13 and 14 February when Mr Hall worked from home and failed to pay Mr Hall for those hours.
- 3.5. Mr Rees made no attempt to have any contact with to Mr Hall for the week up to Friday 21 February 2025.
- 3.6. On 21 February Mr Rees called Mr Hall in the evening to say his laptop was 'buggered'. Mr Rees then dishonestly maintained he could not access it. He eventually sent Mr Hall the correct PIN and failed to respond to Mr Hall when he said he could unlock the laptop with his face or fingerprint. I understand Mr Hall's case to be that Mr Rees falsely claimed he was going to London and had already set off.
- 3.7. On 24 February the rear access door to the building was locked.
- 3.8. On that day, 24 February, Mr Rees required Mr Hall to attend a meeting with Mr Warnes present, which Mr Hall felt trapped in.

Unauthorised deduction from wages.

4. Mr Hall claimed in his claim form that the respondent made unauthorised deductions from his final wage payment (after his employment ended). He said he was owed:
 - 4.1. A payment in respect of two days' accrued untaken annual leave amounting to £292.
 - 4.2. Further wages in the sum of £398.83.
5. At the hearing Mr Hall accepted that, as at the date of termination (24 February 2025), he had accrued three days' annual leave in the leave year and had taken two days' leave. It followed that the amount of leave owing was one day, not two.

Pre-hearing case management decisions

6. Ahead of the final hearing the respondent made an application to strike out the claim and Mr Hall made an application to strike out the response. The applications were refused by Employment Judge Lancaster. The parties were notified of that decision and the reasons for it by letter dated 5 March 2026.
7. Ahead of the final hearing Mr Hall made an application to amend his claim to add a complaint of disability discrimination. The claimant's application was considered and refused by Employment Judge Lancaster. The parties were notified of that decision and the reasons for it by letter dated 16 April 2026. On that day the claimant acknowledged receipt of that Order, confirmed that he had read and understood it, and confirmed that he was ready to proceed with the hearing starting on 29 April.

Evidence

8. The respondent had been directed to prepare a file of documents for the final hearing. Mr Hall took issue with, amongst other things, the way the respondent had prepared the file of documents. Because Mr Hall was dissatisfied with the approach taken by the respondent he prepared his own file of documents for the final hearing. The respondent subsequently prepared what was described as a 'combined trial bundle'. On the day before the final hearing was due to start the claimant wrote to the tribunal expressing concerns about the bundle issues, including the late service of the combined bundle. Notwithstanding those matters Mr Hall said 'I remain fully ready to proceed with the unfair dismissal hearing as listed for 29 April 2026.'
9. On the first day of the hearing I explained to Mr Hall and Mr Roberts that, whilst I took time to read the witness statements and documents referred to in those statements they should have a discussion and try to agree between them which of the files of documents would be used. Mr Roberts subsequently confirmed that they had agreed that the file prepared by the Respondent was to be used as the main bundle; with the claimant's bundle being referred to if and when it was necessary to refer to any documents not in the respondent's bundle.
10. The parties put in evidence video recordings of two meetings between Mr Hall and Mr Rees, which we viewed on the first day of the hearing.
11. Mr Hall gave oral evidence as a witness and was cross-examined on the first day of the hearing.
12. Mr Rees was the sole witness for the respondent and was to give evidence as on the second day of the two-day hearing. On that day, before the hearing resumed, Mr Hall sent an email to the tribunal making an application to postpone the rest of the hearing 'for a short period' on the grounds of what he said was a significant deterioration in his mental health.
13. Mr Hall attended the start of the second day of the hearing. As I explained to the parties at the time, I decided that this part of the hearing in which we were discussing the claimant's application to adjourn the hearing would be conducted in private because we may be discussing information of a personal nature concerning Mr Hall's mental health and I considered the presence of observers might inhibit Mr Hall's willingness to explain as best he could why he believed it was necessary to postpone the remainder of the hearing to a later date.
14. With a view to alleviating Mr Hall's anxiety I permitted him to turn away from the camera and position his camera so that his face would not be visible to others during the remainder of the hearing. I also reminded Mr Hall that we could take regular and unscheduled breaks if that would help him manage his anxiety.
15. We discussed the application, which the respondent opposed. I had explained to the parties that if I were to adjourn the hearing to a later date it would likely be some considerable time before the hearing could be resumed. I asked Mr Hall whether he believed he would be any better able to cross examine Mr Rees on a later date if I were to adjourn the hearing. Mr Hall replied that he would get a legal representative. He added that he was happy for the hearing to continue without him attending as he had provided all the evidence he wished to rely on. I explained that if the hearing went ahead without Mr Hall I could not act as his advocate or representative by challenging Mr Rees' evidence. I suggested that if Mr Hall did not wish to question Mr Rees directly, he could send to the tribunal

any questions he wished to have put to Mr Rees in order to test, challenge and probe his evidence, and I could ask those questions. Mr Roberts said the respondent would not object to proceeding in that way. Mr Hall repeated that he was happy for the hearing to proceed without him. I explained that if Mr Rees' evidence went unchallenged that could affect the chances of Mr Hall's claims succeeding.

16. I adjourned the hearing for just over two hours, until 1pm. This was to give the claimant the opportunity to: reflect on what had been discussed; manage the anxiety he was feeling (the claimant had previously referred to using breathing and grounding techniques to manage anxiety); and further prepare for the remainder of the hearing should I decide not to adjourn it to a later date, including by sending to the tribunal any questions he wished to have put to Mr Rees when he gave evidence.
17. Just before midday Mr Hall emailed the tribunal saying he was 'not fit to continue in the hearing' at 1pm. He said: *'I am happy for the Tribunal to proceed with the hearing in my absence and to decide the case on the basis of the written evidence and documents I have already submitted,'* Mr Hall did not repeat, or mention, his application to postpone the remainder of the hearing.
18. Mr Hall did not attend the hearing when it restarted shortly after 1pm as a public hearing. In light of the claimant's most recent email I decided that the hearing should continue in the claimant's absence.
19. Mr Rees gave sworn evidence. Mr Hall did not take up the option of providing me with the questions he would have wished to ask Mr Rees in cross-examination.

Findings of fact

20. There was evidence that supports Mr Hall's case and undermines the respondent's case. There was also evidence supporting the respondent's case, including the evidence given at the hearing by Mr Rees.
21. I do not agree with Mr Roberts that Mr Hall's case is as weak as Mr Roberts suggests; far from it. I make the following observations in particular.
 - 21.1. There were elements of Mr Rees' evidence that were unclear to me, including why it was necessary to deny Mr Hall access to Unify. There were also some matters that Mr Rees did not explain clearly, such as why denial of access to Unify was maintained as long as it was. Furthermore, some of Mr Rees' evidence seemed to conflict with other evidence. For example, Mr Rees' explanation of what was said in some meetings was in some respects not consistent with what actually appears in the transcripts.
 - 21.2. There were facts and evidence suggesting Mr Rees was dissatisfied with Mr Hall's performance or conduct or both and from which it could be inferred that he wished Mr Hall to leave (which, in turn, would be supportive of Mr Hall's case). That included the fact that Mr Rees did not contact Mr Hall after Mr Hall walked out on 24 February. Mr Rees' evidence was that he said to Mr Hall to think about his future and contact Mr Rees when he had calmed down but that was not supported by the transcript of the conversation that I was referred to. In addition, allegations of gross misconduct were made post-termination in a letter sent by the respondent's solicitors, and Mr Rees gave evidence making allegations about Mr Hall's pre-termination conduct. If

what Mr Rees says is true about that and his perception that the conduct amounted to gross misconduct, then that could have given him a motive to treat Mr Hall in a way that might cause him to leave. If what Mr Rees says about that is not true it goes to Mr Rees' credibility.

22. Having considered all the evidence I made the findings of fact set out below.
23. Mr Hall has not proved it was more likely than not that Mr Rees lied about there being a power surge. In reaching that conclusion I have taken into account the evidence put forward by Mr Hall. I note in particular the letter from Northern Powergrid which suggests there was no 'power cut' affecting the NE24 area on 21 February 2025. However, that letter says nothing about power surges.
24. Mr Hall has not proved that it was more likely than not that Mr Rees changed the desktop PIN.
25. Mr Rees did disable the Unify access. Mr Rees' evidence as to the need to do this following the power surge was not challenged by cross examination and I accept it. In any event disabling Unify access did not prevent Mr Hall accessing the building as alleged by Mr Hall: Mr Hall could still access the building via the back door, except for on the 24 February when that door was locked at the time Mr Hall arrived at work.
26. Mr Hall complains about Mr Rees not reminding Mr Hall of his own password to his desktop computer but Mr Hall had the password and later managed to access the desktop computer using it. Mr Hall has not established that there was anything untoward about Mr Rees not reminding Mr Hall of his own password. Nor has Mr Hall proved that Mr Rees deliberately did not answer his calls as alleged.
27. Mr Rees did not agree to Mr Hall working from home. However, there was no need for Mr Hall to work from home. Mr Hall could have worked from the office on his laptop; Mr Hall did not give any cogent explanation at that time as to why he wished to work from home and nor did that become any clearer during this hearing.
28. If and in so far as Mr Hall maintains he had 'agreed' with others that he would work from home, I find that nobody else had authority to permit Mr Hall to work from home. In any event, on Mr Hall's own evidence what he seemed to be suggesting was not that others had agreed (and had the authority to agree) that he could work from home, but that nobody else had voiced any objection to him working from home.
29. Mr Hall refers to not having been paid for the hours he did work from home but he has not proved there was a shortfall in wages, and certainly not one that predated his resignation.
30. The claimant alleges that Mr Rees made no contact with Mr Hall in the week up to Friday 21 February 2025. That was clearly not the case. Mr Hall did have contact with the claimant that week.
31. On 21 February, Mr Rees tried to access the business laptop. Mr Hall has not proved that it is more likely than not there was any deception on the part of Mr Rees, whether by telling Mr Hall his laptop was 'buggered' or saying he intended

to travel to London. Nor has Mr Hall proved that Mr Rees was deliberately avoiding speaking to Mr Hall on this day.

32. As for the meeting on 24 February, Mr Hall's own evidence is that Mr Rees asked to meet with him and he agreed to the meeting and I find that was the case. Mr Warnes was present at the meeting. There was a time in the meeting when the claimant fell silent for quite a long period after Mr Rees asked him questions. It is common ground that Mr Hall walked out of the meeting that day, communicating his decision to terminate his employment.
33. After the termination of employment the respondent did not pay the claimant anything in respect of accrued untaken annual leave. The leave year coincided with the calendar year. At the time of the termination of his employment, Mr Hall had taken two days' paid leave since the start of the year.
34. After the claimant's employment ended, he was due to be paid for the time he had worked in February 2025. It appears the respondent calculated the claimant's pay as if he had not worked on 13 and 14 February 2025. The respondent has not established that Mr Hall did not work on those days. He was therefore entitled to be paid for those days. However, in fact the claimant was not paid less than he was due for February 2025. That is because, notwithstanding that Mr Hall's employment ended on 24 February 2025, the respondent calculated his pay as if he had been employed until 28 February. That means that the respondent paid the claimant more in respect of wages for February 2025 than the amount the claimant was owed.

Legal framework

Unfair dismissal

35. Section 94 of the Employment Rights Act 1996 confers on employees the right not to be unfairly dismissed.

Dismissal

36. A claim of unfair dismissal cannot succeed unless there has been a dismissal as defined by section 95 of the Employment Rights Act 1996. It is for the claimant to prove, on the balance of probabilities (ie that it is more likely than not), that he has been dismissed.
37. In this case, the claimant claims he was dismissed within the meaning of section 95(1)(c), which provides that termination of a contract of employment by the employee constitutes a dismissal if he was entitled to so terminate because of the employer's conduct. In colloquial terms, the claimant says he was constructively dismissed.
38. For a claimant to establish that there has been a constructive dismissal, he must prove that:
- 38.1. there was a breach of contract by the employer;
 - 38.2. the breach was repudiatory ie sufficiently serious to justify the employee resigning;
 - 38.3. he resigned in response to the breach and not for some other unconnected reason; and
 - 38.4. he had not already affirmed the contract before electing to leave.

Repudiatory breach of contract and the implied term of trust and confidence

39. It is established law that every contract of employment contains an implied term that the employer shall not, without reasonable and proper cause, conduct itself in a manner calculated or likely to destroy or seriously damage the relationship of confidence and trust between employer and employee: *Woods v W M Car Services (Peterborough) Ltd* [1981] ICR 666, EAT; *Lewis v Motorworld Garages Ltd* [1986] ICR 157, CA; *Mahmud v Bank of Credit and Commerce International SA* (often cited as *Malik v BCCI*) [1997] ICR 606, HL.
40. The test is not whether the employer's actions were unreasonable. Nor whether they fell outside the range of reasonable actions open to a reasonable employer: *Buckland v Bournemouth University* [2010] IRLR 445, CA.
41. Case-law shows that the conduct needs to be repudiatory in nature in order for there to be a breach of the implied term of trust and confidence (see *Morrow v Safeway Stores Ltd* [2002] IRLR 9, EAT). This was emphasised by the Court of Appeal in the case of *Tullett Prebon Plc & ors v BGC Brokers & ors* [2011] EWCA Civ 131; [2011] IRLR 420. There, the Court of Appeal cited the case of *Eminence Property Developments Ltd v Heaney* [2010] EWCA Civ 1168 and stressed that the question is whether, looking at all the circumstances objectively, from the perspective of the reasonable person in the position of the innocent party, the conduct amounts to the employer abandoning and altogether refusing to perform the contract.' The High Court in the *Tullett* case held (in a judgment subsequently upheld by the Court of Appeal) that 'conduct which is mildly or moderately objectionable will not do. The conduct must go to the heart of the relationship. To show some damage to the relationship is not enough'; *Tullett Prebon v BGC* [2010] IRLR 648, QB.
42. When assessing whether conduct was likely to destroy or seriously damage the trust and confidence, it is immaterial that the employer did not in fact intend its conduct to have that effect: *Leeds Dental Team Ltd v Rose* [2014] IRLR 8, EAT.
43. Similarly, there will be no breach of the implied term simply because the employee subjectively feels that such a breach has occurred no matter how genuinely this view is held (*Omilaju v Waltham Forest London Borough Council* [2005] EWCA Civ 1493, [2005] ICR 481, CA).
44. The question is whether, viewed objectively, the conduct is calculated or likely to destroy or seriously damage the trust and confidence. The employee's subjective response may, however, be of some evidential value in assessing the gravity of the employer's conduct (see the *Tullett Prebon* case above in the High Court).
45. The duty not to undermine trust and confidence is capable of applying to a series of actions by the employer which individually would not constitute a breach of the term (*United Bank Ltd v Akhtar* [1989] IRLR 507). In *Lewis v Motorworld Garages Ltd* [1986] ICR 157, CA, Glidewell LJ said: '... the last action of the employer which leads to the employee leaving need not itself be a breach of contract; the question is, does the cumulative series of acts taken together amount to a breach of the implied term?'
46. In *Omilaju v Waltham Forest London Borough Council* [2005] EWCA Civ 1493, [2005] IRLR 35, CA the Court of Appeal held that where the alleged breach of the implied term of trust and confidence constituted a series of acts the essential

ingredient of the final act was that it was an act in a series, the cumulative effect of which was to amount to the breach. Those acts need not all be of the same character but the 'last straw' must contribute something to that breach. Viewed in isolation, it need not be unreasonable or blameworthy conduct but the Court of Appeal noted in *Omilaju* that will be an unusual case where conduct which has been judged objectively to be reasonable and justifiable satisfies the final straw test.

Resignation in response to breach

47. An employee will be regarded as having accepted the employer's repudiation, and resigned in response to the breach of contract, only if his or her resignation has been caused by the breach of contract in question.

Affirmation

48. In light of my conclusions on the breach of contract issue as set out below it is unnecessary to say any more about this matter.

Fairness of dismissal

49. If the Tribunal finds a claimant has been dismissed, the next issue to consider is whether the dismissal was fair.

50. In light of my conclusions on the dismissal issue as set out below it is unnecessary to say any more about this matter.

Unlawful deduction from wages

51. A worker has the right, under section 13 of the Employment Rights Act 1996, not to suffer unauthorised deductions from wages.

52. Section 13(3) provides that there is a deduction from wages where the total amount of wages paid on any occasion by an employer is less than the total amount of the wages properly payable by him to the worker on that occasion (after deductions for tax and national insurance).

53. The words 'properly payable' refer to a legal entitlement on the part of the employee to the payment (*New Century Cleaning Co Ltd v Church* [2000] IRLR).

54. In the case of his holiday pay claim, the claimant's case is that he was entitled to this payment under regulation 14 of the Working Time Regulations 1998.

55. Section 13(1) says that an employer must not make a deduction from a worker's wages unless:

55.1. the deduction is required or authorised to be made by virtue of a statutory provision or a 'relevant provision' of the worker's contract, or

55.2. the worker has previously signified in writing his agreement or consent to the making of the deduction.

56. The respondent does not suggest any deduction was authorised in this case.

57. There are some exceptions from the right not to suffer unauthorised deductions but none of them apply in this case.

Conclusions

Unfair dismissal

58. The claimant has not established the following alleged facts on which his claim is based:

- 58.1. That Mr Rees changed the PIN number of Mr Hall's work laptop so that he could not use it.
- 58.2. That by disabling the claimant's Unify account Mr Rees removed the claimant's access to the building (the claimant could still access the building by the rear access door, except on 24 February when the door was locked when the claimant arrived at work).
- 58.3. That Mr Rees lied about the reason Mr Hall could not access his desktop and the reason his building access had been removed.
- 58.4. That Mr Rees made no attempt to have any contact with Mr Hall for the week up to Friday 21 February 2025.
- 58.5. That Mr Rees deliberately did not answer his calls as alleged.
- 58.6. That there was any shortfall in wages that pre-dated his resignation.
- 58.7. That, on 21 February, Mr Rees dishonestly maintained he could not access the claimant's laptop, deliberately failed to respond to Mr Hall when he said he could unlock the laptop with his face or fingerprint, and falsely claimed he was going to London and had already set off.

59. As for the other allegations I reach the following conclusions:

- 59.1. Mr Rees did disable the Unify access. He did so because he believed there had been a power surge. Mr Hall has not established that Mr Rees had no reasonable and proper cause for disabling Unify access. In any event disabling Unify access did not prevent Mr Hall accessing the building as alleged by Mr Hall: Mr Hall could still access the building via the back door except for the morning of 24 February.
- 59.2. Mr Rees did not remind Mr Hall of his own password to his desktop but Mr Hall had the password and later managed to access the desktop computer using it. Mr Hall has not established that there was anything untoward about Mr Rees not reminding Mr Hall of his own password.
- 59.3. Mr Rees did not agree to Mr Hall working from home. There was nothing unreasonable or improper about Mr Rees' stance: Mr Hall could have worked from the office on his laptop; Mr Hall did not give any cogent explanation at that time as to why he wished to work from home and nor did that become any clearer during this hearing. If and in so far as Mr Hall maintains he had 'agreed' with others that he would work from home, nobody else had authority to permit Mr Hall to work from home. The fact that nobody else had voiced any objection to him working from home has no bearing on whether Mr Rees breached the implied term by insisting Mr Hall work from the office.
- 59.4. As for the meeting on 24 February, it is not accurate to say that Mr Rees 'required' the claimant to attend a meeting. What happened is that Mr Rees asked to meet with Mr Hall and Mr Hall agreed to the meeting.
- 59.5. I can see that, had Mr Hall taken the opportunity to ask questions of Mr Rees at this hearing, he might have wished to ask him questions about Mr

Warnes' presence at the meeting on 24 February and why Mr Rees continued with the meeting in the face of Mr Hall's apparent discomfort and long period of silence, particularly as Mr Rees knew of recent upsetting events affecting Mr Hall. However, Mr Hall did not ask those, or any, questions and it would have been improper for me to ask them myself. Whilst it was appropriate for me to ask Mr Rees questions to clarify ambiguities in his evidence, it would have been wrong for me to descend into the arena and give the impression of acting as Mr Hall's advocate. I cannot assume that, if Mr Rees had been questioned about this meeting, he would not have been able to provide reasonable explanations for any aspects of the way he conducted it. Mr Hall has not shown there was no reasonable and proper cause for Mr Rees' actions on that day nor that the meeting, or anything said in the meeting, was calculated or likely to destroy or seriously damage the relationship of trust and confidence.

60. I concluded that the respondent did not breach the implied term of trust and confidence as alleged. Therefore, Mr Hall's resignation did not amount to a constructive dismissal.

61. As Mr Hall's termination did not amount to a dismissal his claim of unfair dismissal was not well founded.

Unauthorised deduction from wages.

Holiday pay

62. As noted above, at the hearing Mr Hall accepted that, as at the date of termination (24 February 2025), he had accrued three days' annual leave in the leave year and had taken two days' leave. It followed that the amount owing under the Working Time Regulations 1998 reg 14 was one day's pay not two days' pay. Mr Hall had calculated that two days' holiday pay amounted to £292. It follows that one day's holiday pay was £146. The respondent did not dispute that this remained unpaid.

63. Accordingly, the claim succeeded, but only in relation to one day's pay.

Wages

64. The question for me was whether the amount paid by the respondent in respect of wages was less than the amount properly payable to Mr Hall.

65. As to the amount properly payable I find that Mr Hall was entitled to be paid for 13 and 14 February 2025. The respondent has not established that Mr Hall did not work on those days.

66. However, notwithstanding that Mr Hall's employment ended on 24 February 2025, I have found that the respondent calculated his final pay as if he had worked up to and including 28 February 2025 (ie four days more than he did in fact work). That means that the amount actually paid by the respondent in respect of wages was in fact greater than the amount properly payable.

67. That being the case, there was no deduction from wages. Therefore, this part of the claim failed.

Approved by Employment Judge Aspden
Date 12 August 2026