



# EMPLOYMENT TRIBUNALS

**Claimant:** Christine Menezes

**Respondent:** Boston Commercial Cleaners Limited

**Heard at:** via Video (CVP) **On:** 01 and 2<sup>nd</sup> July 2026

**Before:** Employment Judge Siddique, Mr G Edmondson and Mr C Tansley

## Representation

Claimant: In person

Respondent: Mr Johnson (Legally qualified consultant)

# RESERVED JUDGMENT

1. The complaint of harassment related to disability is not well-founded and is dismissed.
2. The complaint of direct disability discrimination is not well-founded and is dismissed.
3. The complaint of breach of contract is not well-founded and is dismissed.
4. The complaint of unauthorised deduction from wages was presented outside the statutory time limit. Therefore, the Tribunal does not have jurisdiction to consider the claim which is dismissed.

## REASONS

### Introduction

1. The Claimant is Miss Christine Menezes and the Respondent is her former employer Boston Commercial Cleaners Limited. The Claimant brings a claim for disability discrimination, unpaid wages and breach of contract.
2. The claim was originally due to be heard at Lincoln Magistrates Court over 3 days from 1-3 July 2026, with the 3<sup>rd</sup> day timetabled to give oral judgment

and reasons. However, due to limited judicial availability the hearing was converted to a video hearing and the time estimate reduced to 2 days, with judgment to be reserved. This was in the interests of justice and as an alternative to postponing the hearing.

## **Claims and Issues**

3. The issues were discussed at the start of the hearing and were confirmed to be disability discrimination (Harassment and Direct disability discrimination), unauthorised deduction of wages and breach of contract as confirmed at the preliminary hearing. These were set out in detail in the corrected Case Management order and the parties agreed at the start of the hearing that these were the only issues and there were no additional issues.
4. The issues the Tribunal will decide are set out below.

## **Time limits**

5. Were the discrimination complaints made within the time limit in the Equality Act 2010 section 123? The Tribunal will decide:

- 5.1. Was the claim made to the Tribunal within three months (plus early conciliation extension) of the act to which the complaint relates?
- 5.2 If not, was there conduct extending over a period?
- 5.3. If so, was the claim made to the Tribunal within three months (plus early conciliation extension) of the end of that period?
- 5.4. If not, were the claims made within a further period that the Tribunal thinks is just and equitable? The Tribunal will decide:
  - 5.4.1. Why were the complaints not made to the Tribunal in time?
  - 5.4.2. In any event, is it just and equitable in all the circumstances to extend time?

6. Was the claim for unauthorised deductions made within the time limit in s.23 of The Employment Rights Act 1996? The Tribunal will decide:

- 6.1. Was the claim made to the Tribunal within three months (plus early conciliation extension) of the date of payment of the wages from which the deduction was made?
- 6.2. If not, was there a series of deductions and was the claim made to the Tribunal within three months (plus early conciliation extension) of the last one?
- 6.3. If not, was it reasonably practicable for the claim to be made to

the Tribunal within the time limit?

6.4. If it was not reasonably practicable for the claim to be made to

The Tribunal within the time limit, was it made within a reasonable period?

### **Disability (Equality Act 2010 section 6)**

7. Did the claimant have a disability as defined in section 6 Equality Act 2010 at the time of the events the claim is about? The Tribunal will decide:

7.1. Did they have a physical or mental impairment?

7.2. Did it have a substantial adverse effect on her ability to carry out day-to-day activities?

7.3. If not, did the claimant have medical treatment, including medication, or take other measures to treat or correct the impairment?

7.4. Would the impairment have had a substantial adverse effect on her ability to carry out day-to-day activities without the treatment or other measures?

7.5. Were the effects of the impairment long-term? The Tribunal will decide:

7.5.1. did they last at least 12 months, or were they likely to last at least 12 months?

7.5.2. if not, were they likely to recur?

### **Harassment related to disability (Equality Act 2010 section 26)**

8. Did the respondent do the following things:

8.1. Did Debra Wilkinson say to the claimant, *"You are disabled and useless"* in the office in January/February 2024?

8.2. Did Debra Wilkinson say to the claimant, *"You're supposed to be disabled, you can't attend sites as you are disabled"* in the office in February 2024?

8.3. Did Debra Wilkinson say to the claimant, *"You can't park in the disabled bay as its for people who are properly disabled"* in the office approximately ten times in January/February 2024?

8.4. Did Debra Wilkinson say to the claimant, *"I can't see the value in you as you are disabled and so I can't rely on you"* in the office in March 2024?

9. If so, was that unwanted conduct?

10. Did it relate to disability?
11. Did the conduct have the purpose of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant?
12. If not, did it have that effect? The Tribunal will take into account the claimant's perception, the other circumstances of the case and whether it is reasonable for the conduct to have that effect.

**Direct disability discrimination (Equality Act 2010 section 13)**

13. Did the respondent do the following things:
  - 13.1. Did Debra Wilkinson say to the claimant, "You are disabled and useless" in the office in January/February 2024?
  - 13.2. Did Debra Wilkinson say to the claimant, "*You're supposed to be disabled, you can't attend sites as you are disabled*" in the office in February 2024?
  - 13.3. Did the respondent dismiss the claimant on 22 April 2024?

14. Was that less favourable treatment?

The Tribunal will decide whether the claimant was treated worse than someone else – a "comparator" – was treated. There must be no material difference between their circumstances and the claimant's.

If there was nobody in the same circumstances as the claimant, the Tribunal will decide whether they were treated worse than someone else would have been treated.

The claimant says they were treated worse than Laura Wilkinson.

15. If so, was it because of disability?
16. If liability was established it was agreed that the Tribunal would also go on to determine the appropriate remedy.

**Remedy for discrimination, harassment or victimisation**

17. Should the Tribunal make a recommendation that the respondent take steps to reduce any adverse effect on the claimant? What should it recommend?
18. What financial losses has the discrimination caused the claimant?
19. Has the claimant taken reasonable steps to replace lost earnings, for example by looking for another job?
20. If not, for what period of loss should the claimant be compensated?
21. What injury to feelings has the discrimination caused the claimant and how much compensation should be awarded for that?

22. Has the discrimination caused the claimant personal injury and how much compensation should be awarded for that?
23. Is there a chance that the claimant's employment would have ended in any event? Should their compensation be reduced as a result?
24. Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?
25. Did the respondent or the claimant unreasonably fail to comply with it?
26. If so is it just and equitable to increase or decrease any award payable to the claimant?
27. By what proportion, up to 25%?
28. Should interest be awarded? How much?

#### **Unauthorised deductions (Employment Rights Act 1996 Part II)**

29. Did the respondent make unauthorised deductions from the claimant's wages and if so, how much was deducted?

#### **Breach of Contract (Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994 and common law)**

30. Did this claim arise or was it outstanding when the claimant's employment ended?
31. Did the respondent do the following:  
a. Fail to reimburse the claimant £1795 for her NEBOSH course fee?
32. Was that a breach of contract?
33. How much should the claimant be awarded as damages

#### **Remedy**

34. How much should the claimant be awarded?

#### **Procedure, documents and evidence heard**

35. In the course of the hearing the Tribunal heard evidence from the Claimant and her partner Mr Andrew Brinklow. For the Respondent we heard evidence from Debra Louise Wilkinson, owner and Managing Director of Boston Commercial Cleaners, and Laura Jane Wilkinson,

who was Debra Wilkinson's daughter and an employee of Boston Commercial Cleaners. They all adopted their statements and were cross-examined.

36. The Tribunal were provided with a hearing bundle, which with some additional documents was numbered from 1-190. The respondent also sought to rely on written statements from Ann Bowden and Michael Young, both cleaners for the respondent. As they were not giving evidence and were not available to be cross examined, we explained that it was less likely that weight would be given to that evidence.

37. At the conclusion of the evidence submissions were made by the claimant and on behalf of the Respondent. The respondent also provided some summary written submissions

38. In reaching our decision, the Tribunal had regard to the written evidence provided in the final hearing bundle, the witness statements and the evidence we heard during the hearing.

## **The Relevant law**

39. The statutory law relating to the claimant's claims of discrimination is contained in the Equality Act 2010 (EqA). The relevant sections of the EqA were sections 6 (protected characteristic of disability); 13 (direct discrimination); section 26 (harassment); 123 (time limits) and 136 (burden of proof). The relevant provisions are set out here:

## **Disability**

40. Section 6 Equality Act 2010 provides:

- (1) A person (P) has a disability if –
  - (a) P has a physical or mental impairment, and
  - (b) the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities

41. A "substantial" adverse effect is one that is "more than minor or trivial" (s. 212(1) EqA 2010).

42. Schedule 1 paragraph 2 of the Equality Act 2010 defines long-term effects as follows:

- (1) The effect of an impairment is long-term if—
  - (a) it has lasted for at least 12 months,
  - (b) it is likely to last for at least 12 months, or
  - (c) it is likely to last for the rest of the life of the person affected.

(2) If an impairment ceases to have a substantial adverse effect on a person's ability to carry out normal day-to-day activities, it is to be treated as continuing to have that effect if that effect is likely to recur.

.....

43. The Guidance on matters to be taken into account in determining questions relating to the definition of disability states that:

“Normal day-to-day activities” are things that people do on a regular or daily basis (Guidance [D2]), such as shopping, reading, writing, having a conversation, using the telephone, watching television, getting washed and dressed, preparing and eating food, carrying out household tasks, walking and travelling by various forms of transport and taking part in social activities. They do not include activities which are only normal for a particular person or a small group of people (Guidance [D4]). They do not include highly specialised work activities which are not normal day-to-day activities for most people (Guidance [D8]).

### **Direct discrimination**

44. The law is set out in S.13 equality Act 2010:

“s.13 (1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.”

....

### **Harassment**

45. Section 26 of the Equality Act (EqA) 2010 provides:

“26 Harassment

(1) A person (A) harasses another (B) if—

(a) A engages in unwanted conduct related to a relevant protected characteristic, and

(b) the conduct has the purpose or effect of—

(i) violating B's dignity, or

(ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

.....

(4) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account—

(a) the perception of B;

(b) the other circumstances of the case;

(c) whether it is reasonable for the conduct to have that effect.”

46. Under section 23 of the EqA when a comparison is made there must be no material difference between the circumstances relating to each case. In direct discrimination cases it is appropriate for a tribunal to consider first whether the claimant received less favourable treatment than the appropriate comparator and then secondly whether the less favourable treatment was because of their protected characteristic. However, in

some cases, for example where there is only a hypothetical comparator, these questions cannot be answered without first considering the reason why the claimant was treated as she was.

47. Decisions are frequently reached for more than one reason that provided the protected characteristic had a significant influence on the outcome then discrimination is made out.

48. The Equality Act 2010 provides for a shifting burden of proof. Section 136 provides as follows:

*(2) If there are facts from which the Court could decide in the absence of any other explanation that a person (A) contravened the provision concerned, the Court must hold that the contravention occurred.*

*(3) But subsection (2) does not apply if A shows that A did not contravene the provision.*

Consequently, it is for a claimant to establish facts from which the Tribunal can reasonably conclude that there has been a contravention of the Act.

49. The time limit for discrimination claims is set out at s.123 of the EqA 2010, (subject to ACAS early conciliation provisions):

“123 Time limits

(1) .... proceedings on a complaint within section 120 may not be brought after the end of—

(a) the period of 3 months starting with the date of the act to which the complaint relates, or

(b) such other period as the employment tribunal thinks just and equitable. ...

(3) For the purposes of this section—

(a) conduct extending over a period is to be treated as done at the end of that period;

(b) failure to do something is to be treated as occurring when the person in question decided on it.”

### **Unauthorised deduction from wages**

50. The claim for unauthorised deductions is governed by the provisions of the Employment Rights Act 1996 (ERA 1996). Section 13 sets out the right not to suffer unauthorised deductions from wages. We have to consider whether the amount of wages paid on the relevant occasion(s) was less than what was ‘properly payable’ to the claimant. We have to consider whether such a deduction was properly authorised pursuant to statute or contract. Alternatively, had the employee previously signified their consent to the deduction (section 13(1) ERA 1996).

51. A worker may bring a complaint for unauthorised deductions from wages to the tribunal pursuant to section 27 Employment Rights Act 1996. Pursuant to section 24(2) Employment Rights Act 1996, where the Tribunal finds a complaint to be well founded it may, if it considers it

appropriate in all the circumstances, order the employer to compensate the claimant for financial loss attributable to the matter complained of.

52. S.23 ERA 1996 sets out the time limit for bringing a claim:

*“(2) Subject to subsection (4), an employment tribunal shall not consider a complaint under this section unless it is presented before the end of the period of three months beginning with—*

*(a) in the case of a complaint relating to a deduction by the employer, the date of payment of the wages from which the deduction was made, or*

*(b) in the case of a complaint relating to a payment received by the employer, the date when the payment was received.*

*...*

*(4) Where the employment tribunal is satisfied that it was not reasonably practicable for a complaint under this section to be presented before the end of the relevant period of three months, the tribunal may consider the complaint if it is presented within such further period as the tribunal considers reasonable.”*

## **Findings of fact**

53. In this section we set out our findings of fact. We arrived at these findings of fact on the balance of probabilities, taking into account the evidence before us and, in particular, the contemporaneous documentation. These reasons set out our key findings and the basis for them but are not exhaustive: the Tribunal considered in detail all of the relevant evidence even if it is not all recited in these reasons. Our findings are limited to those matters relevant to the issues the Tribunal has to decide in this claim.

54. We find the Claimant was employed by the Respondent from 09/05/2023 until her dismissal on 22/04/2024. The Respondent, Boston Commercial Cleaners Limited, is a commercial cleaning services company. The Claimant's job was as HR & Health & Safety, this was an administrative role, which included work in recruitment including onboarding new staff, record management of staff, including their training records and personnel details. The claimant also had some involvement in payroll, including calculating holiday entitlement. This was a small office and the claimant's role was varied to meet the business needs as they arose.

55. The claimant worked 24 hours a week across 3 days, Tuesdays, Wednesdays and Thursdays, for 8 hours a day starting at 9 am and finishing at 5pm. The drive in to work took approximately 30 minutes.

56. Prior to this role the claimant worked in human resources and had some experience in this field including knowledge of discrimination law in the workplace.

## Training

57. Prior to the start of her employment with the respondent the claimant signed up to an AAT accountancy course. She did not actually start or complete a module but had started looking at the coursework.
58. The claimant's contract of employment said the following about Training [43]:  
*"The Company will provide you with all the necessary training required by your core duties and will meet the costs involved"*
59. On 9<sup>th</sup> November 2023 Debra Wilkinson carried out a performance review with the claimant. The claimant completed a self-review document ahead of the meeting. At this meeting the claimant indicated her desire to complete a health and safety course such as IOSH and NEBOSH, as she believed she would then be able to look into the health and safety aspects of the business. The claimant indicated that her intention was to switch her AAT course to a health and safety course. As part of an agreed action plan, it was recorded that the Claimants' proposed action would be *"To self-fund and undertake the course online"*, complete it within 12 months and for it to be reviewed in November 2024. The agreed success measure was to allow one day a week at work and time at home to complete [97].
60. At the hearing, when it was pointed out that this document said the course would be self-funded the claimant indicated that she had already self-funded the AAT course so she said she would look into changing the course and that Debra Wilkinson had said, obviously we would refund you as it benefits the business. The claimant explained that the self-review form [97] did not reflect that the respondent agreed to fund the course because that had been completed prior to the meeting and that Debra had agreed to fund it at the meeting. However, the Tribunal is aware that the claimant's own training record, which was produced in the bundle, records that she started the NEBOSH course in General health and safety course on 01 December 2023, and despite this record being completed after the meeting it still records the costs as being "self-funded". This is inconsistent with the claimant's claims that by this date Debra Wilkinson had agreed to fund the course.
61. In her email of 15/03/2024 [page 114] the claimant mentioned the fact she had changed course following a discussion with Debra Wilkinson and also sought to rely on the fact the contract said any training would be paid by the company. However, she did not seek to argue in that email that Debra Wilkinson had also agreed to refund the costs in a meeting. The Tribunal found that the contemporaneous documentary evidence does not support the claimant's case that Debra Wilkinson

agreed to fund or refund her for completing the NEBOSH course. It is also unlikely that Debra Wilkinson would agree to fund a course where the claimant had already incurred the cost prior to starting her employment and was simply switching courses.

62. The Tribunal found that the claimant's health and safety role was limited and essentially administrative in nature. The online portal, ATLAS, was used to provide templates and risk assessment forms and the package included access to a helpline if any specialist advice was required as to what to include in a risk assessment. The portal also gave access to any courses required to use ATLAS and courses to complete the job role. The Tribunal found that the NEBOSH course was not necessary for the claimant's role but that the claimant chose to do it for her self-development and to gain an additional qualification. The courses available on the respondent's ATLAS system were short modules, which gave a good grounding for the job role but did not lead to any qualifications. The Tribunal found that the NEBOSH course was not necessary for the claimant's role or duties.

## **Unpaid wages**

63. On the 4<sup>th</sup> December 2023 we found that the claimant was requested to cover a meeting, on a day she does not usually work, a Monday, and that it was also agreed she would put up some office decorations. The claimant accepts she worked 4 hours on this date [117]. Whilst the claimant says that Debra said she would pay her for the full day, we do not accept this was the case. It is more likely that there was an agreement for her to be paid for her time at the meeting including some additional time for the decorations. This is also consistent with the claimant's initial request for money owed to her, which she assessed was for 4 hours @ £12.50 [page 117].
64. The claimant was paid fortnightly and the wages due for this day were not included in her December or January pay slip. We find that it became due when her wages were next paid which was on the 18/12/2023 [page 154]. The Respondent does not deny that she was not paid for this day.
65. We accept that the claimant mentioned this to with Debra verbally but that she did not receive payment. We find that the claimant was aware, from her training and experience in human resources that she could have brought a claim for unpaid wages before the Employment Tribunal. She confirmed this to be the case in evidence. She further confirmed that the reason she did not bring this claim earlier was because the sum due, £50, was insignificant and she did not want to create hostility in a small office.

## **Claimant's disability**

66. The claimant has long standing health conditions. At the relevant time, specifically around January to March 2024, she was suffering from mechanical lower back and neck pain with some intermittent pain radiating down both legs. This was being managed by Ibuprofen. The evidence indicated these difficulties had been ongoing to various degrees since at least 2010. There was some evidence of mild degeneration disc in the back and a mild disc bulge, which did not require surgery [180-182]. The claimant had not found physiotherapy helpful and was being referred to the pain clinic. The Respondent accepted that she had a physical impairment.
67. The Tribunal found that it did have a substantial adverse effect on her ability to carry out day to day activities. This would not be evident in the office where the claimant indicated her main difficulty was that, after a day of sitting in the office, she would feel stiff and then find it difficult to get in and out of the car. It did have a substantial adverse effect on her ability to carry out day to day activities at home. So even with the benefit of pain killers, she had difficulty with household chores, including doing the Hoovering, loading the washing, activities which required bending crouching or twisting. We found she also had some difficulty with dressing in the morning and would be mindful of what she wore; picking items which she found easier to get into. We found that the effects of the impairment were long-term lasting significantly over 12 months. This was also accepted by the respondent.
68. The claimant did not disclose any disability when she was recruited to the position. We accept her evidence that she did not disclose those in part because she was embarrassed but also because she did not feel it disabled her from the type of work involved in the role.
69. We did not find that the respondent, specifically Debra Wilkinson, owner and managing director, had any awareness of the claimant's disability. We find this to be the case because the claimant never declared that she had a disability when she joined as an employee, she never asked for any reasonable adjustments and she also confirmed in evidence that she never missed any work because of her disability. Her main symptoms were, feeling stiff towards the end of the day and having difficulty getting into and out of her vehicle. It would not be unusual for someone working at a desk all day to feel some stiffness towards the end of the day, so in itself it would not alert anyone to a disability. Nor would any stiffness in getting into a vehicle be evidence of a disability, even assuming that Mrs Wilkinson was present to witness it.
70. The Claimant's case, in her statement, was that Debra Wilkinson became aware of her disability because someone who worked in the communal building had asked Debra Wilkinson to let her know that her disabled blue badge had run out and required renewal. The claimant says this prompted Debra Wilkinson to ask about her disability, which

was discussed in depth. However, at the hearing when asked when Mrs Wilkinson found out about her disability, she said it was soon after she joined, that Debra had hurt her back and that she showed her some exercises to do on the floor and had a giggle. This is when she first found about the disability and later, before Christmas, the claimant had discussed her disability with Laura Wilkinson in more depth and Debra Wilkinson was present. Mrs Wilkinson denies this happened. We take into account that the claimant is recalling matters that happened over two years ago however this is a significant inconsistency and is a relevant matter which undermines the claimant's account.

71. We also take into account the claimant's evidence that Debra Wilkinson was aware of her disability because she bought her a tall filing cabinet because she found it difficult to bend down to easily access a smaller cabinet already in the office. Mrs Wilkinson accepted that she bought a taller filing cabinet. We found that that Mrs Wilkinson previously ran the company office from home and shortly before the claimant joined, she moved to office premises in a communal building. Mrs Wilkinson ordered a number of office furniture from a brochure at this time and the reason she ordered a larger filing cabinet was because the claimant wanted to work more from paper-based files for customers and staff members and so required a larger filing cabinet. We do not find that the purchase of a larger filing cabinet was due to knowledge or awareness of a disability.
72. We accept the evidence of both Debra Wilkinson and Laura Wilkinson that the Claimant never informed them that she considered herself disabled and never requested any workplace adjustment. Laura Wilkinson's evidence was that, at interview, the Claimant indicated that she required no adjustments to perform the role. She further stated that throughout the period she worked alongside the Claimant she observed no mobility difficulties and was unaware of any disability, save that the Claimant occasionally complained of backache after sitting for lengthy periods. Debra Wilkinson's evidence was to similar effect.
73. The Claimant remained in full-time employment, performed an office-based role, attended work regularly until March 2024 and there is little evidence of any outward manifestation of disability that would necessarily have alerted the Respondent to a substantial and long-term impairment. Whilst the Claimant probably experienced pain and discomfort, we are not satisfied that those symptoms would reasonably have conveyed to the Respondent knowledge of a disability as defined by the Equality Act.

## Christmas party

74. In December 2023, prior to Christmas, Debra Wilkinson arranged a small Christmas Party, which included a meal and drinks. Those who attended the meal included the claimant and her partner Andrew Brinklow and her daughter Rebecca Lovell, as well as Debra Wilkinson and her daughter Laura and husband Tim Wilkinson. Also in attendance was Mr Young, an employee, and his family. In total there were approximately 10 people in attendance.
75. The claimant in her statement and in evidence at the hearing expressed her view that the events of this evening are what resulted in the deterioration of her working relationship with Debra Wilkinson. The events of the evening are disputed. After hearing the evidence, the Tribunal were of the view that the events of the evening were largely irrelevant to the issues in the appeal, which were focused on alleged harassment in the following year. However, as the claimant considered them significant, we made the following findings.
76. The claimant says that during the evening Debra Wilkinson made various inappropriate remarks directed at her partner, Andrew Brinklow, including “what a long tongue you have Andrew”, “you are a lucky girl Christine” and that when reaching into a bag she said “don’t worry Andrew it’s not a vibrator.”
77. The claimant’s account is supported by the evidence of her partner. Debra Wilkinson denies making such comments and her account is supported by her daughter who was also present that evening. We found that Debra Wilkinson did not make these comments. We considered it unlikely that she would make such comments towards an employee’s partner in the presence of her husband and daughter. There is no suggestion of any history of any such inappropriate sexual comments. Furthermore, we note that the claimant accepts that she never raised these comments with Debra Wilkinson. Nor is there any indication that these comments or any claimed link to her dismissal was raised, during various email exchanges shortly before her departure from her employment. Nor was it raised in the claimant’s ET1 form. Indeed, in her claim form she suggested that the reason she was being pushed out was because the respondent did not want to employ two office staff, and preferred to keep her daughter Laura Wilkinson. We found that if the events at the Christmas party happened as claimed and were pivotal to her claim, and why she believes she was dismissed, the claimant would have raised this sooner and not for the first time in her statement for the hearing dated 10 June 2026, over 2 years after her dismissal.
78. The claimant and her partner also say that towards the end of the evening, whilst the claimant was in the restroom, Debra Wilkinson, approached Andrew Brinklow and said what a lovely man he was and

wanted to have “a bit of fun with no strings” and that he “deserved a real woman as opposed to a disabled woman”. It is claimed that no one else heard this conversation. Debra Wilkinson denies it happened. We found this did not happen. In particular we did not find it likely that Debra Wilkinson would proposition an employee’s partner who she barely knew. We also did not find it likely that she would refer to the claimant being disabled, because we do not accept she had knowledge of her disability. Furthermore, the claimant’s disability was not evident during the working day, so as to warrant such a disparaging comment, particularly in circumstances where Mrs Wilkinon suffers from aches and pains due to a back condition herself. We found that if disparaging comments had been made about her disability at this point, no reasonable explanation has been given by the claimant for why she did not raise it previously in her various email exchanges or her ET1 form. It again being raised over two years later in her statement.

### **Allegations of harassment/direct discrimination- January/February 2024**

79. The claimant accepts that up until January 2024 she enjoyed a good working relationship with Debra Wilkinson and there was a nice working atmosphere.
80. The claimant says that in January or February 2024 Debra Wilkinson said “you are disabled and useless”. At the hearing when asked what happened immediately before this comment, she explained that she had been trying to empty a bin and had dropped the contents on the floor. This led to the comment from Debra Wilkinson. The claimant says she found this offensive but did not react to the comment and just picked up the contents and took them out. Debra Wilkinson denies making those comments.
81. The Tribunal does not accept those comments were made. Firstly, given how good a working relationship and atmosphere the claimant said she enjoyed, it is unlikely that she would not have raised an objection to the comment then or later. Secondly when Mr Brinklow was asked about what comments he recalled being mentioned by the claimant, he said he remembered a comment about “you are bloody useless, I don’t know why I employ you”. Significantly, there was no mention of her being disabled.
82. Thirdly, the Tribunal found it significant, not just to this particular allegation of harassment but to all the allegations of harassment related to disability, that in the various email correspondence sent to the respondent prior to dismissal this allegation was not raised. Of particular relevance was an email sent by the claimant to Debra Wilkinson on 15 March 2024 [112-114]. This was a comprehensive email covering various matters that the claimant was not happy with including a grievance meeting, favouritism, holidays, GDPR, job roles and health

and safety. It is clear that the purpose of the email was to raise all concerns in order to clear the air, this is evident from the penultimate paragraphs where the claimant asks Debra Wilkinson to do the same:

*“Do you have any other concerns you have not previously mentioned that you would like to get off your chest, so to speak, in order to clear the air”*

83. Importantly, the claimant raised a grievance about how she was spoken to in the prior Wednesday and Thursday. And mentioned that *“I do not feel that saying things like “I am struggling to find the value of you” and comparing me to a previous employee (who stole 3k from you and disappeared) and saying she was better than me is appropriate, kind or useful”*. The Tribunal found that if any disparaging comments or harassment related to disability had occurred in January, February or March then it would have been raised at this time.
84. The claimant also complains that in February 2024 Debra Wilkinson said to the claimant that *“you’re supposed to be disabled, you can’t attend sites as you are disabled”*. Debra Wilkinson denies making those comments. The Tribunal do not find it likely this was said. The claimant had previously been attending sites for note taking which is inconsistent with the suggestion that Debra Wilkinson would be opposed to her attending sites. To the contrary, we found that Debra Wilkinson was keen on the claimant attending sites because she wanted the claimant to meet and talk to staff and build relationships, for example when getting contracts of employment signed, instead of sending them in the post.
85. The claimant in her statement suggests that she was told that Laura Wilkinson would be going to sites because she was not disabled. However Laura Wilkinson role at times included relief cleaning, which was no part of the claimant’s role. Indeed, in her evidence the claimant accepted that she had never asked to clean on sites and nor did Debra Wilkinson expect her to clean on sites. Which is itself inconsistent with her complaint, made after her dismissal, that she was told *“you can’t clean on sites as you are supposed to be disabled”* [118]. It is not credible this comment was made as the claimant’s own evidence is that she never asked to clean on sites and there was never any expectation that she would clean on sites.
86. The claimant also complains that between January- February 2024 Debra Wilkinson said to her, on approximately 10 occasions, *“You can’t park in the disabled bay as its for people who are properly disabled”*. Debra Wilkinson denies having made these comments. We take into account that the claimant did complain about this comment soon after her dismissal [118]. The Tribunal did not find it likely that these comments were made. The claimant says she displayed a blue badge and so was entitled to park in a disabled bay, so there was no obvious reason for anyone to raise an objection to her parking there, especially on ten occasions. Furthermore, the car park was not Debra Wilkinson’s

responsibility it was run by the business premises and shared with other business users. We found that Debra Wilkinson was extremely busy during this period running her business and would not have got involved in managing the car park or making such comments to the claimant.

### **Allegation of harassment March 2024**

87. The claimant complains that in March 2024 Debra Wilkinson said to her that *“I can’t see the value in you as you are disabled and so I can’t rely on you”*.

88. The respondent used a software system called Citation ATLAS system, which covers health and safety, online training and important HR documents. The claimant was not happy with this system and was keen to introduce a new system. Laura Wilkinson gave evidence that in January and February 2024 the claimant was seeking to change to a new system “bright HR”, and had several meetings on Microsoft Teams with Bright HR despite the respondent being locked into a contract with Citation ATLAS, which included a penalty for an early exit. The claimant was seeking to exit this contract but had not thought through the consequences of implementing a new system and the need to retrain all staff on its usage. This background was not challenged by the claimant during the evidence of Laura Wilkinson.

89. The Tribunal found that matters came to a head on Thursday 7<sup>th</sup> March 2024. Debra Wilkinson had a discussion with the claimant about her lack of ability in using the current ATLAS system effectively. It is likely that she was critical of her use of this system and was not happy with her seeking to move to another software portal. It is likely that Debra Wilkinson did say that she *“struggled to see the value in you”*. Such a comment is supported by the relatively contemporaneous text that the claimant sent on 11 March 2024 [101]. In this the claimant states:

*“I did not appreciate the way you spoke to me on Thursday its really stressed me out not knowing how secure my position in the company is when you say things like Joanne was better than me and you are struggling to see the value in me amongst all the other nasty things you said at the time”*

90. Importantly, no mention was made, even in this text communication that this was related to disability. Indeed, given that her disability was primarily related to her back it is difficult to see how any connection to operating a software portal could be made. Nor, as found above, was any link to her disability raised in the subsequent email sent on 15 March 2024, when discussing how she was spoken to prior to her last day at work [113]

91. The Tribunal finds there was a falling out in March 2024 unrelated to disability. Even in evidence at the hearing when the claimant was asked

about the incident, she recalled it being said that “I can’t see the value in you...” which is inconsistent with the claim that Debra Wilkinson said that “I can’t see the value in you **as you are disabled**” (our emphasis).

92. That this conversation was connected to the use of a software system is also apparent from an email sent later that day, 7 March 2024, at 17:01 by the claimant to Debra Wilkinson, where in the opening paragraph the claimant recognised that she needed to take more time to get the best from the current software portal:

*“I have taken some time to have a look into Citation to make it work better for us. Although the system might not be the best I don’t think we have really given it the attention its needs for us to get the best from it, me especially.”*

93. Whilst we accept that the claimant was upset by the conversation and the manner she was spoken to, we do not find it likely that her disability was mentioned or that the comment made was related to her disability.

### **Events leading up to dismissal**

94. The claimant was next due to attend work on Monday 11<sup>th</sup> March 2024. However, she in fact returned to the office with her partner on the afternoon of Sunday 10<sup>th</sup> March 2024, when no one else was present, and when she knew that Debra Wilkinson was away in Nottingham. The claimant says this was to download course material. At the same time, she took a number of items from her desk and slippers she used in the office.

95. We found that it was likely that after her conversation with Debra Wilkinson on Thursday 7<sup>th</sup> March that the claimant was upset and had resolved not to return to work. We do not accept as credible that her purpose on attending the office on Sunday, a journey of approximately half an hour by car, was to download course material. The claimant accepted that this could have waited until Monday, the likelihood is that the claimant accessed her computer, downloaded material on to a usb drive, and removed her personal items because she had decided not to return to work.

96. On Monday 11<sup>th</sup> March 2024 the claimant was due to attend work to meet a new employee and review relevant documentary evidence. However, shortly after 9am the claimant texted Debra Wilkinson to say she was not going to make it into work that day. Later that afternoon she texted to say she would not be in for the rest of the week because she was being investigated for a cancer scare, she had crashed the car and was in pain and she had not appreciated how she was spoken to on the Thursday. She confirmed that her doctor said she was stressed and should take time off work.

97. On Tuesday 12<sup>th</sup> March 2024 Debra Wilkinson returned to the office and noticed that the claimant’s desk appeared to be cleared. Mrs Wilkinson then reviewed cctv footage and discovered that the claimant had

accessed the office on the Sunday, and used a usb to extract files from the computer, they were also concerned that following this the office computer systems were not accessible. These concerns were expressed in an email sent to the claimant on 12 March 2024 [107]. The email also indicated that this would be investigated upon her return and asked that in the meantime she return her company keys.

98. The respondent was sufficiently concerned that they instructed an IT company to investigate and fix their systems [139-140]. The Tribunal is satisfied that Debra Wilkinson was informed that company data was extracted, files deleted and access to the One Drive denied. Debra Wilkinson was sufficiently concerned by these actions that she informed the Information Commissioner's Office (ICO) about the data breach and also reported the matter to the police. We found that Debra Wilkinson had a genuine and reasonably held belief that the claimant had entered the office at the weekend, without prior notice, and had extracted data, deleted files and through her actions had denied access to the One Drive.

### **Dismissal and appeal**

99. There were a series of email and text communications between the parties. Ultimately the respondent decided to dismiss the claimant and communicated this by letter dated 22 April 2024 [116]. The reason given for her dismissal was the removal of company data from a company hard drive without permission. As the claimant had less than 2 years' service it was decided not to follow a formal process. However, it was agreed to dismiss her with notice and she was paid for 2 weeks pay in lieu of notice together with accrued holidays.

100. The dismissal letter also gave the claimant a right of appeal. Although the claimant did not attend an appeal hearing she raised 9 matters which she said she would like a response to. The respondent provided a written response by letter dated 2<sup>nd</sup> May 2024.

101. The claimant pursued Acas conciliation. The date of receipt by Acas of the early conciliation was on 10 April 2024 and certificate was issued on 22 May 2024. A claim was received by the Tribunal on 08 July 2024.

### **Conclusions**

102. Having made the above findings of fact, and applying the relevant law, the Tribunal concludes as follows on the issues before the Tribunal:

#### **Disability discrimination**

103. The Tribunal found that the claimant had a physical impairment, which included suffering from mechanical lower back and neck pain with some intermittent pain radiating down both legs. The Tribunal found that it had a substantial adverse effect on her ability to carry out day-to day

activities, including dressing and some household chores, even whilst taking medication in the form of painkillers at the relevant time. The Tribunal found the effects of the impairment were long-term and had lasted a number of years, this was not disputed by the respondent.

104. The Tribunal therefore concludes that the claimant did have a disability for the purpose of the equality act 2010, at the relevant time.

105. However, having a relevant disability does not necessarily mean that an individual suffered discrimination or harassment, that will require consideration of the circumstances of the case.

### **Harassment related to disability**

106. The claim for harassment rests on whether 4 particular comments were made by Debra Wilkinson to the claimant, between January and March 2024, and if so whether they met the legal test for harassment. The four comments were:

- (i) "You are disabled and useless"
- (ii) "You're supposed to be disabled, you can't attend sites as you are disabled"
- (iii) "You can't park in the disabled bay as its for people who are properly disabled" said on approximately ten occasions; and
- (iv) "I can't see the value in you as you are disabled and so I can't rely on you"

107. It is convenient to deal with comments (i) –(iii) together. The Tribunal has found, for the reasons given above, that these comments were not said. The Tribunal did not find the claimant's evidence credible and preferred the evidence of Debra Wilkinson including the documentary evidence. The Tribunal were not satisfied that the claimant has proven that these comments were made.

108. As the Tribunal found that these comments were not made the other issues, as to whether the comments were unwanted conduct relating to disability do not fall for consideration.

109. In respect of comment (iv) the Tribunal has found that a comment was made on the 7<sup>th</sup> March 2024 by Debra Wilkinson to the claimant. However, the Tribunal finds that the comment actually made was likely to have been "*I can't see the value in you....*". This comment was made in the context of the claimant having difficulty with a software system operated by the respondent and being unable to accurately calculate holiday entitlement and pay and instead suggesting that the respondent move to a different software system. The Tribunal found that the words "because you are disabled" were not used.

110. We accept the claimant found this comment and the way it was said deeply upsetting and that this amounted to unwanted conduct.

111. The Tribunal does not accept that the comment and conduct was related to disability. As already stated, we do not find that the words “because you are disabled” were used. The words that were used, “*I can’t see the value in you...*” have to be seen in the context of the discussion which they took place in. The Tribunal are satisfied that the comments were made relating to the appellant’s apparent difficulty in using and getting the best out of the respondent’s software system. We did not find that it had any relation to the appellant’s disability.
112. In summary we therefore found that the claimant has not established that comments (i)-(iii) were made at all. Consequently, the claimant has not established that unwanted conduct took place or amounted to harassment under the Equality Act.
113. In respect of comment (iv) we accept that a comment was made but not the comment alleged by the claimant. We accept that the comment was upsetting and amounted to unwanted conduct but do not accept that that it related to disability, we found it related to her ability to use the respondent’s software system effectively.
114. The claim for harassment related to disability is not well founded and is dismissed.

### **Direct disability discrimination**

115. The claimant’s claim for direct disability discrimination is based on three things which were claimed to have been said or done. The first two were comments said to have been made by Debra Wilkinson to the claimant in January- February 2024:
- (i) “You are disabled and useless”
  - (ii) “You’re supposed to be disabled, you can’t attend sites as you are disabled”
116. These first two comments, are the same as relied upon for the harassment claim. As found above the Tribunal were not satisfied that these comments were made. Consequently, the claimant has not established that these were acts of direct discrimination.
117. The third thing relied upon was the dismissal of the claimant on 22 April 2024. There is no dispute that this happened.
118. The questions for the Tribunal were whether the dismissal was less favourable treatment and whether it was because of disability.
119. The claimant puts forward Laura Wilkinson as an actual comparator- as someone she was treated worse than in being dismissed. The Tribunal are not satisfied that Laura Wilkinsons is a suitable comparator as there are material differences in their circumstances. In particular

Laura Wilkinson did not attend the office on a Sunday, without prior notice, and download material and otherwise interfere with the respondent's computers. Furthermore, Laura Wilkinson is the daughter of Debra Wilkinson, such a relationship is likely to give rise to a greater deal of trust than a relatively recently employed employee.

120. We have considered whether a hypothetical employee, without a disability, would have been treated in the same way. We found that they would have, and the dismissal was not less favourable treatment. We found that the reason why the claimant was dismissed was because the respondent had a genuine and reasonable belief that the claimant had entered the offices on a weekend when it was known that no-one else would be present and downloaded data, deleted files and prevented access to the one drive. That this was reported to the ICO and police at the time, and that an IT firm was hired to investigate and rectify matters, was evidence that this was a genuinely held belief. The claimant had not been able to provide a credible explanation for her actions in coming into the office that weekend. It is clear the respondent had lost trust in the claimant, after the incident with the computer, and that this was the reason for the dismissal and that her dismissal had nothing to do with her disability.

121. For these reasons the claim for direct disability discrimination is not well founded and is also dismissed.

122. As we have not found that there was any harassment or direct disability discrimination we have not considered it necessary to consider the timeliness of the discrimination claims as they fail on the substantive merits

### **Unauthorised deduction from wages**

123. We found that the claimant worked an additional 4 hours on 4<sup>th</sup> December 2023, at the request of the respondent. This amount was payable in her next fortnightly pay slip which was on 18/12/2023. The amount due was £50 (4 hours @ £12.50 p.h) and was unpaid. This amounted to an unauthorised deduction from wages. This was a one-off payment and was not part of a series of deductions

124. There is however a relevant issue as to whether this complaint was within the time limit. The claim for unauthorised deduction arose on the 18/12/2023, which was the date of payment of the wages which the deduction was made from [154]. The additional 4 hours were unpaid in the wages paid on this date. An in-time claim would have had to have been made within three months, so by 17/03/2024. Early conciliation was not started until 10/04/2024, which was after the time limit expired, so does not have the effect of extending time further.

125. The claim was brought on 08/07/2024, so was over 3 months late. The Tribunal has to consider if it was reasonably practicable to make the claim to the Tribunal within the time limit and if not, was it made within a reasonable time thereafter.
126. The time limit is a statutory gateway that is necessary to be complied with in order for the Tribunal to have jurisdiction to consider the claim. The consideration of what was reasonably practicable is construed narrowly as what was reasonably capable of being done.
127. This is not a case where the Claimant was incapable due to ill health to present her claim. The claimant was not ignorant of the possibility of making a claim to the Tribunal it was clear from her evidence that she chose not to make a claim earlier because she considered the sum involved, £50, was insignificant and she did not want to create hostility in a small office.
128. It is regrettable for the Claimant did not present her complaint within time. However, the fact that she did not consider the sum significant enough to pursue or that she did not wish to create hostility did not mean it was not reasonably practicable for her to present her complaint within the time limit.
129. Separately, and in any event, we would have concluded that the Claimant has not presented her complaint within such period as was reasonable. It is clear that the working relationship deteriorated in March and by the 22 March 2024 the claimant was dismissed, so her claim of not wishing to create workplace hostility was no longer a relevant consideration. It would have been reasonable for her to have presented her complaint far sooner than she did on 08/07/2024.
130. In these circumstances the Claimant has not established that it was not reasonably practicable for her to present her claim within the statutory time limit (or such period as was reasonable thereafter).
131. Therefore, the Tribunal does not have jurisdiction to consider the Claimant's claim for unauthorised deduction from wages which is dismissed.

### **Breach of contract**

132. The claimant argues that the respondent owes her £1795, which is the cost of a NEBOSH health and safety course she paid for.
133. This is a claim which was outstanding when the claimant's employment ended on 22/03/2024, as the respondent does not dispute that this was not paid for by the respondent. The respondent's argument is that they were not contractually required to pay the course fee and as such there was no breach of contract. The respondent in submissions sought to argue that this was out of time. However, the Tribunal finds

this was in-time as the matter was outstanding at the time of termination of the contract on 22/03/2024 and a Tribunal claim was brought within 3 months (plus early conciliation extension).

134. The claimant relies on the terms of her contract of employment in support of her claim, these were that:

*“The Company will provide you with all the necessary training required by your core duties and will meet the costs involved”*

135. The Tribunal found that the claimant's health and safety role was limited and essentially administrative in nature. The Tribunal found that the NEBOSH course was not necessary for the claimant's role but that the claimant chose to do it for her self-development and to gain an additional qualification. The courses available on the respondent's ATLAS system were short modules, which gave a good grounding for the job role but did not lead to any qualifications. Those modules were the necessary training required for the claimant's core duties. The Tribunal found that the NEBOSH course was not necessary for the claimant's role or core duties. As the contract only required the Company to meet the costs of necessary training, and as NEBOSH was not necessary training, the failure to pay the course fees was not a breach of contract.

136. The claimant also relies on her claim that Debra Wilkinson in a conversation she had on 09 November 2023, orally agreed to refund the costs of the course fees. We found, for the reasons given above, that this did not occur and this was not supported by the documentary evidence from both before and after the meeting, which recorded that the training costs were to be self-funded. The Tribunal found this was not a breach of contract because there was no agreement by the respondent to pay for or refund these course fees.

137. For these reasons the claim for breach of contract is not well-founded and is dismissed.

Approved by:

**Employment Judge Siddique**

**28/08/2026**

JUDGMENT SENT TO THE PARTIES ON

10/09/2026

J. Woolley  
FOR THE TRIBUNAL OFFICE

## Notes

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

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[www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/](http://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/)