



EMPLOYMENT TRIBUNALS

Claimant: Mr Scott Pearce

Respondent: Stores Supply Ltd

Heard at: Bristol

On: 21 August 2026

Before: Employment Judge Oliver

Representation

Claimant: In person

Respondent: Mr Steve Ryan, HR adviser

RESERVED JUDGMENT

1. The complaint in respect of holiday pay is well-founded. The Respondent made an unauthorised deduction from the Claimant's wages by failing to pay the Claimant for one day of holiday accrued but not taken on the date the Claimant's employment ended. The Respondent shall pay the Claimant **£101**.
2. The claims for notice pay and breach of contract are not well founded and are dismissed.
3. The Acas Code of Practice on Disciplinary and Grievance Procedures 2015 did not apply to the Claimant's dismissal.

REASONS

1. This is a claim for notice pay, holiday pay and arrears of pay. Judgment was reserved because the hearing started late and because I considered that it would be clearer for the parties to have a written explanation of my decision.

Issues

2. The issues for the hearing were discussed and agreed as follows:
- a. Did the Respondent fail to pay the Claimant his full entitlement to notice pay?
 - b. Did the Respondent fail to pay the Claimant £101 of holiday pay after he had worked on Good Friday?
 - c. Did the Respondent otherwise breach the Claimant's contract in a way that gives him a claim in the Employment Tribunal?
 - d. Is the Claimant entitled to an uplift to compensation for failure to follow the Acas Code on disciplinary procedures?

Evidence

3. I had a single bundle of documents of 48 pages plus index, which I have read. I also had a written witness statement from the Claimant, and he gave oral evidence at the hearing. I heard oral submissions from both parties.

Facts

4. I have considered all of the evidence and submissions, and find the facts necessary to decide the issues in the case.
5. The Claimant was employed by the Respondent as a driver on a permanent basis from 17 March 2025, having previously been an agency worker.
6. I have seen extracts from the Claimant's contract of employment. He had a three-month probationary period during which he could be dismissed with one week's notice. After successful completion of the probationary period, notice increases to one month from the employer. The contract refers to an Employee Handbook for the procedures that apply to capability or disciplinary issues. The contract also says that the employee should apply to a Director within five working days if dissatisfied with any decision to take action or dismiss you on capability/disciplinary grounds, and says further information can be found in the employee handbook under the heading "Capability/Disciplinary Appeal Procedure". I was not provided with any extracts from this Handbook.
7. The extracts from the contract that were provided in the bundle did not cover the Claimant's holiday entitlement. The Respondent's response to the claim says that the Claimant was entitled to 28 days' holiday including bank holidays, and that he was paid in excess of his accrued entitlement. I was provided with no documents relating to holiday taken or holiday paid.
8. The Claimant was asked to work on 18 April 2025, which was Good Friday and so a bank holiday. He questioned whether this bank holiday has been compensated correctly, and never received a response from the Respondent.
9. On 11 June the Claimant became unwell at work. He was offered the next week and two days off, and returned to work on 23 June. The Claimant was off sick due to an injury between 30 June and 2 July 2025. He then started a new

sickness absence on 9 July 2025 related to mental health. He obtained a fit note covering the period to 7 September 2025.

10. I have seen emails between the Claimant's manager Jeremy Thorburn and Mr Ryan on 11 August 2025 which refer to a Bradford Factor score based on three sickness absences. The Claimant had an absence management meeting on 13 August 2025 by telephone with Mr Thorburn.

11. The Claimant's employment was terminated on 15 August 2025. The termination letter says there is no clear or medically supported explanation to substantiate the prolonged absence, a reference to heat exhaustion and stress appears to relate to a single task and is framed more as a grievance, and his stated discomfort with certain aspects of the role suggests a lack of compatibility with the operational requirements of the position. The letter goes on to say, "*In light of these factors, the Company has formed a reasonable belief that you are not motivated by the role and that the position is not suited to your preferences or capabilities*". The letter says he will be paid for his notice period and any accrued holiday, but does not say how this will be calculated.

12. The Claimant was paid one week's full pay as notice. He was not paid any accrued holiday pay.

13. The Claimant queried this payment on the basis his contract has a three month probationary period, no extension was issued or discussed, and so he was entitled to one month's notice pay. He also asked about accrued holiday pay and asked for a breakdown of his final payment.

14. I have not seen a direct response from the Respondent to the Claimant about these issues. I have seen an email from Tanya Ryan to Neringa Clancey (payroll provider) dated 9 October 2025, which says the Claimant should have been paid SSP up to date of termination and then payment in lieu of one further month at SSP in respect of notice. On 10 October she writes again saying that they need to pay him the difference between the week received and the month he is due.

15. Ms Clancey replied on 13 October. She says that the Claimant was paid one week at his regular rate (£504.80). One month at SSP rate would be £475. Based on this, she says it appears they have overpaid the Claimant by £29.80.

Conclusions

16. My conclusions are as follows, taking the issues in turn.

17. Did the Respondent fail to pay the Claimant his full entitlement to notice pay? The first issue is whether the Claimant was entitled to one week's notice or one month's notice. I agree with the Claimant that he was entitled to one month's notice. His contract specifies a three-month probationary period, and he was not told that this was being extended. After the probationary period, his notice period increased from one week to one month. This appears to be confirmed by the Respondent's internal correspondence in October 2025.

18. The next issue is what the Claimant was entitled to be paid for that notice

period. He was paid £504.80, which is one week's full pay. The Respondent says that he was only entitled to be paid statutory sick pay for his notice period as he was signed off sick, and so he has actually been overpaid slightly for one month's notice at the rate of SSP.

19. Where an employee is off sick when they are given notice, they are generally entitled to be paid notice at their usual rate of pay for their normal working hours (Employment Rights Act 1996, section 88(1)). However, this does not apply if the notice to be given by the employer is at least one week more than statutory notice (section 87(4)). This somewhat unusual provision means that an employee who has a more generous notice period in their contract can be paid sick pay only during their notice period. They are not entitled to full pay. It is understandable that the Claimant was not aware of this rule. However, I am satisfied that this rule applied in his case – his statutory notice period was one week under section 86(1) (continuous employment of less than two years), but his contractual notice period from the Respondent was one month.

20. I therefore find that the Respondent did not fail to pay the Claimant his full entitlement to notice pay.

21. Did the Respondent fail to pay the Claimant £101 of holiday pay after he had worked on Good Friday? The Respondent did not provide any evidence in relation to holiday taken and paid, and Mr Ryan acknowledged at the hearing that there was no evidence to defend against this claim. It is not disputed that the Claimant worked on Good Friday. He believes he is entitled to a further day of holiday because he worked on this day. The Respondent was unable to explain how this day of holiday had been factored into any accrued holiday pay calculations.

22. In the absence of any evidence from the Respondent, I find that the Claimant was entitled to be paid for one accrued day of holiday on termination of employment. This is because he had worked on a bank holiday, which formed part of his overall holiday entitlement. The parties agree that the relevant sum would be £101.

23. Did the Respondent otherwise breach the Claimant's contract in a way that gives him a claim in the Employment Tribunal? The Claimant argues that he was actually dismissed for capability, and so the Respondent should have followed its own contractual capability process, including a right of appeal. He says that the documents show his contract was not consulted when he was dismissed.

24. The Respondent says that the Claimant was not dismissed for capability, and so any such procedures did not apply. They say that the Claimant had under two years' service and so they were able to dismiss him for any reason without following a particular process.

25. I have considered the termination letter. The Claimant says that this letter is capability dressed up under a different name. I do not agree. The reasons given for termination are that he is not motivated by the role and that the position is not suited to his preferences or capabilities. It does not appear that the Claimant was dismissed because of sickness absence, or because he was incapable of

performing the role. It was because the Respondent formed the view that he was not motivated by or suited to the role. The dismissal happened without a fair process, and it may well not have been a legally fair reason for dismissal. However, as the Claimant has less than two years' service, he is not able to claim unfair dismissal. Regrettably for the Claimant, he was not legally entitled to a fair dismissal process.

26. Even if the reason for dismissal had been capability, it may be that the capability process in the employee handbook was expressly non-contractual. This would often be the case, meaning that an employer would not be contractually required to follow the process. I do not know, because I have not seen the relevant part of the handbook. I do not need to decide this point, because I have found that dismissal was for a different reason.

27. I therefore find that the Respondent did not breach the Claimant's contract by failing to follow a capability procedure and/or provide an associated right of appeal against dismissal.

28. **Is the Claimant entitled to an uplift to compensation for failure to follow the Acas Code on disciplinary procedures?** The Acas Code of Practice on Disciplinary and Grievance Procedures 2015 applies to dismissals for poor performance and misconduct, and similar situations where events leading up to dismissal have involved disciplinary proceedings. That was not the case here. The reason for dismissal was not poor performance or misconduct, and so the Acas Code did not apply.

29. **In conclusion**, it is regrettable that the Respondent did not explain clearly at the time of termination how the Claimant's notice pay had been calculated and what entitlement he had to accrued holiday pay. These proceedings may not have been necessary if these calculations had been set out in the dismissal letter.

Employment Judge Oliver

Date: 21 August 2026

RESERVED JUDGMENT & REASONS SENT TO THE PARTIES ON
17 September 2026