



EMPLOYMENT TRIBUNALS FINAL HEARING

Claimant: Miss C Etienne
Respondent: Thodaska Ltd
Heard at: Leeds Employment Tribunal
On: 1, 2, and 3 September 2026
Before: Employment Judge S Shore

Representation

For the Claimant: In Person
For the Respondent: Mr M D Cook, Pupil Barrister

JUDGMENT AND REASONS

The Judgment of the Employment Tribunal is that: -

1. The claimant's claim of automatic unfair dismissal because she made a protected disclosure under section 103A of the Employment Rights Act 1996 ("ERA 1996"), fails and is dismissed.
2. As the claimant's claim has been dismissed, the Tribunal will not go on to determine remedy.

SUMMARY REASONS

1. These are the Tribunal's summary reasons given following a full merits hearing of the claimant's complaint of automatic unfair dismissal because she made a protected disclosure under section 103A of the ERA 1996.
2. These summary reasons are produced in accordance with the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2024. The standard of proof was the balance of probabilities. I considered the guidance to Judges on litigants in person given in the Equal Treatment Bench Book.
3. The issues for determination were those agreed between the parties and concerned automatic unfair dismissal because the claimant made a protected disclosure and related questions of time limits.
4. The claimant's application to amend her claim to include a claim of detriment because she made a protected disclosure under section 47B of the ERA 1996 was refused.
5. I find that the claimant made a qualifying disclosure on 27 November 2023 [pages 122-124 of the bundle] in which she disclosed information which, in her reasonable belief, tended to show that a criminal offence had been committed and/or the health and safety of any individual had been endangered. The qualifying disclosure had been made to a matter for which a person (the Local Authority Designated Officer, the statutory role in England responsible for overseeing allegations against adults who work with children "LADO") other than her employer had legal responsibility under section 43C ERA 1996.
6. I find that the respondent had put in place a procedure that actively encouraged members of staff to make referrals to the LADO. I find that the respondent did not discourage the making of referrals to the LADO by staff and did not take any express, direct action against the claimant for making the protected disclosure in question. The claimant was the Safeguarding Officer for the respondent at the time with which this claim is concerned.

7. I find that the respondent erred in its handling of the disciplinary allegations made against the claimant from 10 January 2024. I find that if the claimant had two years' continuous service with the respondent, she would have succeeded in a claim of ordinary unfair dismissal.
8. I find that the way that the respondent conducted the disciplinary process demonstrated incompetence, rather than a strategy of action leading to dismissal because the claimant made a protected disclosure. I make that finding because:
 - 8.1. I find that the claimant has not shown on the balance of probabilities that Mr Njathi told the claimant and several of her colleagues on 10 January 2024 that there had been a complaint from Ofsted or Calderdale Council and that Mr Njathi needed to find out whether any of the claimants had been involved in whistleblowing against the respondent and who he could trust in the team. I make that finding because:
 - 8.1.1. The allegation was first made at the preliminary hearing on 24 September 2024. It was not in the ET1 of any of the six original claimants: none of them alleged whistleblowing detriment or dismissal.
 - 8.1.2. There was no evidence before me that any of the six colleagues raised that matter with the respondent during their subsequent dismissals.
 - 8.1.3. None of the claimant's former colleagues attended to give evidence.
 - 8.1.4. I find it unlikely that if six people were told on 10 January 2024 that they were suspected of whistleblowing and were then all dismissed a matter of days later that they would not have mentioned that fact until nearly nine months after the last of the dismissals.
 - 8.2. I do not find that the P45 sent to the claimant on 19 January 2024 is determinative of the claimant's assertion that she was dismissed on that date. I find that if the claimant believed that she had been dismissed on 19 January 2024, she would have indicated this to the respondent.
 - 8.3. I find that the claimant did not request her P45 on 18 January 2024 but that the respondent produced one anyway. I find that the most likely reason the

respondent produced the P45 was that the respondent did not consider the claimant to be an employee. The respondent subsequently conceded that the claimant was an employee.

- 8.4. I find that the effective date of the claimant's dismissal was 29 January 2024 and was effected by the respondent's letter to the claimant of that date. I find that the claimant was expressly dismissed, although the dismissal letter was somewhat ambiguously worded. I find that the claimant accepted that it was a letter terminating her employment.
- 8.5. I find that the respondent had an unambiguous policy that encouraged staff to raise concerns about safeguarding matters with the LADO.
- 8.6. I find that there is no evidence linking the presence of officers from the local authority on 10 January 2024 with the claimant's disclosure on 27 November 2023.
- 8.7. I find that the claimant's disclosure did not contain any information that reflected badly on the respondent and cannot draw an inference from the nature of the information disclosed that the respondent would have been upset about what the claimant wrote and launched a retaliatory disciplinary process as a result of what she had written.
- 8.8. There is a significant gap in time between the protected disclosure on 27 November 2023 and the instigation of disciplinary proceedings on 10 January 2024.
- 8.9. The claimant did not engage with the respondent's disciplinary procedure after 10 January 2024 and therefore did not take the opportunity to put her case to the respondent. I appreciate that the respondent's process was chaotic, but the claimant sent nothing to the respondent protesting her innocence or alleging that the disciplinary process was being pursued because she had made the disclosure on 27 November 2023.
- 8.10. The claimant first alleged that she was dismissed because she made a protected disclosure after she had presented her ET1 on 1 February 2024

(which was accepted by the Tribunal on 7 March 2024). The claimant's assertion of automatic unfair dismissal was first made in the preliminary hearing before Employment Judge Bright on 24 September 2024 [41-45].

8.11. I understand why the claimant believed her dismissal to be unfair, but I find that the reason for her dismissal was not because she made a protected disclosure on 27 November 2023.

9. I made my decision by considering all the evidence in the round.

10. The claim of automatic unfair dismissal is therefore dismissed.

11. As the claim is dismissed, no issue of remedy arises.

Approved by
Employment Judge Shore

Dated 28 September 2026