EMPLOYMENT TRIBUNALS

Claimant: **Mr Anwar Abushama**

Respondents: **Extons Foods Limited**

JUDGMENT and reasons having been given at the hearing and Judgment having been promulgated shortly thereafter, written reasons have been requested by the claimant in accordance with Rule 60(4) of the Employment Tribunal Procedure Rules 2024. The reasons are set out as follows.

REASONS

Issues

1. The issues for determination were those identified in the case management orders of Employment Judge Ross dated 24 September 2025 and reproduced in the final List of Issues. They comprised:
   (a) four allegations of race-related harassment;
   (b) four allegations of direct race discrimination; and
   (c) associated questions concerning detriment, comparators and causation.

2. The Tribunal was not required to determine issues concerning disability discrimination, victimisation, whistleblowing, health and safety detriment or unfair dismissal. Those matters were not before us.

Evidence

4. The Tribunal heard oral evidence from the claimant.

5. The respondent called Josh Docherty and Janet Rascagneres. We heard oral evidence from both witnesses, and they were cross-examined at length. Written witness statements had also been provided by Paulina Mikolajewska and Simeon Vodenicharov but they did not attend for cross-examination. We will deal with the written statements later.

6. We considered the witness evidence, the contemporaneous documentary records, the production records, the training and induction records, the risk

assessments, the claimant's contemporaneous complaints and the parties' written and oral submissions.

Findings of Fact

7. We made the following findings of fact.

Credibility

8. A central issue in this case was reliability.

9. We found the claimant unreliable on a number of material disputed matters. One example arose when the Tribunal worked through the List of Issues and attempted to identify the individuals said to be responsible for particular acts. We found the claimant vague and inconsistent in identifying the relevant protagonists. He made claims about various people, and we expected him to be clear about the identity/description of who he accused of discrimination and he was surprisingly inconsistent. During cross-examination his account changed on matters which were important to the pleaded allegations.

10. A particularly important example concerned the alleged forklift or pallet-truck incident. The claimant initially identified Simone as the relevant individual. He later changed his evidence, before apparently reverting to Simone. We regarded this as an important inconsistency because the identity of the alleged wrongdoer was central to the allegation itself.

11. We also found aspects of the claimant's evidence concerning his previous experience and background to be deliberately untrue. That finding further reduced the weight that we were prepared to place on his evidence where factual disputes existed.

12. We were not persuaded by the claimant's challenge to every training and induction record. We accepted that he had been shown fire and safety arrangements, and he acknowledged that he had been given papers to sign. We accepted the respondent's evidence concerning its induction processes, assessment procedures and careful documentation. We did not find it likely that the claimant would have signed the documents he accepted signing without any induction process having occurred at all. Equally, we do not find it necessary to make findings about every specific item allegedly covered by those documents. The issue before us was not whether every detail of induction was perfect. The issue was whether the claimant was treated less favourably because of race.

18. In contrast, where Josh Docherty’s evidence conflicted with of that of the claimant, we preferred Josh Doherty’s evidence. We found him measured, careful and truthful. His evidence was generally consistent with the documentary records and production material. We similarly accepted and preferred the evidence of Janet Rascagneres. We found her evidence credible, internally consistent and supported by the contemporaneous records.

19. The respondent did not call Paulina Mikolajewska or Simeon Vodenicharov. This omission was unsatisfactory. Both individuals were potentially important witnesses because they were more directly involved in some of the events relied upon by the claimant. An explanation for their non-attendance was proffered. However, we did not accept the claimant's submission that their absence meant their evidence should automatically be ignored. We were still entitled to consider their written accounts together with the remaining evidence. More importantly, our conclusions did not depend solely or even primarily upon those statements.

20. We reached our conclusions by reference to the claimant's own inconsistencies, the evidence of Josh Docherty and Janet Rascagneres, the production records, the risk assessments and the other contemporaneous documentation. Therefore, whilst the witnesses' absence reduced the weight we were prepared to attach to disputed parts of their statements, it did not materially alter our overall conclusions.

Documentary Evidence

27. We attached significant weight to the contemporaneous records. The final hearing bundle consisted of 512 pages, and the parties submitted additional documents at the start of the hearing.

28. A particularly important document was the production schedule referred to during the hearing as “HB7”. HB7 contradicted the claimant's oral evidence regarding the lifting requirements of task concerned. We found that HB7 showed that the task to which it related did not require the claimant to lift cheeses weighing more than six kilograms. On that issue we preferred HB7 to the claimant's oral evidence.

29. We also accepted that the production records supported the evidence of Josh Docherty. We accepted that the risk assessments at bundle pages 155-156 supported the respondent's account of its working arrangements.

30. That did not mean that every aspect of the respondent's operation was ideal or that every risk was eliminated. However, the risk assessments demonstrated that the respondent had considered manual handling, rotation, training and related matters and tended to support the respondent's account rather than the claimant's account.

31. We also accepted that the claimant may occasionally have handled cheese items weighing up to 20 kilograms. However, we distinguished between the task addressed by HB7 and the separate work relied upon concerning occasional 20-kilogram blocks. We accepted the respondent's evidence that those heavier items arose in a different context, were infrequent and were risk assessed. We specifically did not treat the HB7 task and occasional heavier lifting as the same activity.

The applicable law

40. Section 13 Equality Act 2010 ("EqA") provides that a person discriminates against another if, because of race, that person treats the other less favourably than they treat or would treat others.

41. Race includes ethnic origins. The claimant is of Arab ethnicity.

42. S26 EqA prohibits unwanted conduct related to race which has the purpose or effect of violating dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.

43. We also applied the burden of proof in s136 EqA. The claimant was required to establish facts from which the Tribunal could properly conclude, in the absence of an explanation, that discrimination had occurred. Only if such facts were established would the burden shift to the respondent.

44. The absence of a comparator is not necessarily fatal to a discrimination claim. Equally, the existence of a diverse workforce is not by itself an answer to a discrimination claim. The Tribunal must stand back and determine why the treatment occurred. The ultimate question is whether race materially influenced the treatment complained of.

Direct Race Discrimination

45. We will deal with direct race discrimination first because that fits in with the chronology.

General approach

46. The claimant's direct discrimination case was based on four principal allegations:
    a. he was not given manual handling training which was given to an Eastern European worker: issue 7(1)
    b. he was denied rotation which was afforded to an Eastern European worker; issue 7(2)
    c. he was required to undertake heavy lifting from 19 to 27 July 2022 without rotation: issue 7(3), and
    d. he was subjected to continuous instructions designed to ensure that he did not stop working; issue 7(4).

52. Before considering each allegation individually, we record four findings which informed our consideration of all direct discrimination issues.

53. First, we found the claimant's account unreliable on important disputed matters for the reasons already given.

54. Secondly, we accepted the evidence of Josh Docherty and Janet Rascagneres.

55. Thirdly, we found no evidence of any racial remark, racially hostile comment or explicit reference to the claimant's Arab ethnicity by any respondent representative.

56. Fourthly, although the respondent relied on workforce diversity, we treated that merely as contextual evidence. The fact that much of the workforce was Eastern European or Southern European did not by itself answer the claim. Equally, however, it provided no support for the proposition that race was the reason for the treatment complained of.

57. We therefore examined each allegation separately before standing back and considering the evidence as a whole.

Issue 7(1): training

58. The claimant alleged that an Eastern European worker was given manual handling training, including practical demonstrations, while he was not.

59. We rejected that allegation.

60. We accepted the respondent's evidence regarding its induction process. Agency workers underwent induction before commencement of work and that further workplace induction was provided when they started work.

61. We further accepted that workers moving between departments were given role-specific instruction. The claimant accepted that he was shown the fire or safe exit arrangements and accepted that he signed documents. His case was that the training was inadequate or fabricated rather than entirely non-existent.

62. We were not persuaded by that contention. We found it unlikely that the respondent's documented induction processes, testing arrangements and records would exist in the form they did if no induction had taken place at all.

63. We accepted the respondent's evidence concerning external scrutiny, documentation and induction procedures.

64. We did not find that the claimant had established that he received no manual handling training.

65. We also found that the claimant had failed to identify any reliable comparator. Although he referred to an Eastern European worker, we were not provided with evidence establishing that person's role, experience, stage of training or circumstances sufficiently to permit a meaningful comparison.

66. We therefore rejected the allegation both factually and as an allegation of race discrimination.

Issue 7(2): rotation

71. The claimant alleged that an Eastern European worker was allowed to rotate work whereas he was not.

72. We accepted that some rotation occurred within the workplace. We accepted the respondent's evidence that workers could move between production and packing functions depending upon operational requirements and competence.

73. We found that the claimant's assignment was very short and that he worked relatively few shifts.

74. We found that he had limited experience and limited training in comparison with established workers.

75. We accepted the respondent's evidence that the claimant worked primarily on the slower and less skilled functions because those were the functions appropriate to a new starter.

76. We further find that the claimant was moved from production into packing on 27 July 2022. That fact alone is inconsistent with the suggestion that no movement or rotation occurred at all.

77. The claimant was not particularly engaged nor was he diligent. Indeed, we were not persuaded that he was committed to the work or that he was particularly interested in it or in progressing. The fact that he was often told to get on with his tasks tell us that he was not a hard worker.

78. We are unable confidently to reconstruct every movement between lines and tasks from the evidence now available. However, we were satisfied that the claimant had not established that a suitable comparator was rotated whilst he was denied rotation because he was an Arab.

79. We accepted the respondent's explanation that task allocation reflected operational requirements and skill level rather than ethnicity. Accordingly, the allegation failed.

Issue 7(4): heavy lifting from 19 to 27 July 2022

83. The claimant alleged that he was required to undertake heavy lifting throughout the relevant period without rotation.

84. The evidence concerning lifting was more nuanced than either party suggested.
85. We do not accept the claimant's evidence on this point and particularly wherever it conflicted with HB7.

86. HB7 was an important contemporaneous production document. The Tribunal's finding was that HB7 contradicted the claimant's oral account regarding lifting requirements and showed that the relevant work addressed by that document did not require lifting in excess of six kilograms. We preferred HB7 to the claimant's oral evidence.

87. However, we do not find that six kilograms represented the maximum weight ever handled by the claimant during his employment. We accepted that some production work involved heavier cheese blocks. The respondent's witnesses

accepted that certain production work could involve blocks weighing up to approximately 20 kilograms.

88. We therefore distinguish between two separate matters:
(a) the work addressed by HB7; and
(b) occasional handling of heavier cheese blocks elsewhere.

92. We accepted the respondent's evidence that any heavier lifting was risk assessed and formed part of the production process. We also accepted that the respondent had considered manual handling risks in its documented assessments.

93. The existence of a risk assessment does not by itself answer the discrimination complaint. However, the critical question is why the claimant was required to perform the work that he performed.

94. We found no evidence that any work allocation occurred because he was Arab. Furthermore, we found no evidence that similarly situated non-Arab workers were spared that work because of their race.

95. We therefore rejected the contention that the lifting requirements constituted race discrimination.

Issue 7(4): continuous instructions

98. The claimant alleged that he received continuous instructions from management to ensure that he did not stop working.

99. We rejected that allegation in the form pleaded.

100. We accept that managers gave instructions. That was part of their function. Production-line work necessarily involves direction from supervisors concerning pace, workflow and task allocation.

101. However, we did not find that the claimant was subjected to unusual or discriminatory instructions because of his race. We did not accept that the evidence established the detrimental and discriminatory conduct alleged.

102. We accepted the evidence of Paulina Mikolajewska, insofar as it was supported by the remaining evidence, that she did not continuously direct the claimant not to stop working because of his race.

103. We accepted that ordinary instructions to continue carrying out work formed part of the claimant's job. He was not a hard worker, so he needed to be told regularly to apply himself.

104. We drew a distinction between ordinary workplace supervision and discriminatory conduct.

105. We therefore rejected this allegation.

Comparator evidence

109. Comparator evidence was an important feature for assessing the claimant's case.

110. The claimant relied upon one or more Eastern European workers. We found that no reliable comparator had been established.

111. The Tribunal repeatedly sought clarification regarding the identity of the relevant comparators and the circumstances relied upon. We did not receive evidence enabling us to compare like with like. We were not satisfied as to the precise role, training history, experience, duties or circumstances of the alleged comparator workers. We therefore could not properly conclude that they were in materially the same circumstances as the claimant.

112. This did not automatically determine the claim. We nevertheless considered whether discrimination could be inferred without a comparator and for the reasons already given, we concluded that it could not.

Our overall conclusion on direct discrimination

120. Applying s136 EqA, we were not satisfied that the claimant established facts from which the Tribunal could properly infer discrimination, i.e. the burden of proof did not transfer to the respondent to disprove race discrimination.

121. In reaching that conclusion we relied upon:
    (a) our adverse findings regarding the claimant's reliability;
    (b) our acceptance of the evidence of Josh Docherty and Janet Rascagneres;
    (c) the support provided by HB7 and the production records;
    (d) the support provided by the risk assessments;
    (e) the absence of reliable comparator evidence;
    (f) the absence of discriminatory remarks;
    (g) the absence of any contemporaneous complaint alleging race discrimination despite contemporaneous complaints concerning other matters; and
    (h) our conclusion that the respondent's explanations were the more persuasive explanations for the treatment complained of.

122. Standing back and examining the evidence as a whole, we found no evidence that the claimant was treated differently because he was Arab.

123. The claims of direct race discrimination therefore fails.

Harassment Related to Race

General approach

124. The harassment claim concerned four allegations:

(a) an expectation that the claimant carry heavy packaging and/or pallets: issue 1(1)
(b) being angrily instructed to get up and continue working on 27 July 2022: issue 1(2)
(c) pallets being moved before stacking was completed: issue 1(3)
(d) being struck by pallet-moving equipment and blamed thereafter: issue 1(4).

125. The legal question was not simply whether unpleasant, difficult or unsafe things occurred. The statutory question was whether there was unwanted conduct *related to race* and whether that conduct had the prohibited purpose or effect.

126. We therefore considered each allegation separately.

Issue 1(1): heavy packaging and/or pallets

128. The claimant alleged that he was expected to undertake strenuous work involving heavy packaging and pallets outside the scope of his job role.

129. We reject the claimant's account so far as it depended upon the proposition that he was throughout required to carry unusually heavy items contrary to the documented work requirements.

130. As already explained, we preferred HB7 where it conflicted with the claimant's evidence. HB7 demonstrated that the task to which it related did not require lifting above six kilograms. We also accepted the production records and the evidence of Josh Docherty.

131. We accepted that the claimant may occasionally have handled heavier items in production and that some production work involved blocks of cheese weighing up to approximately 20 kilograms.

132. However, that does not establish discrimination or harassment. We accepted the respondent's evidence that such work formed part of the production process and was risk assessed. We also accept that this formed party of the job that the claimant was expected to undertake.

133. There was no evidence that the claimant was allocated such work because he was Arab. There was nothing to indicate at all that race played any part in the allocation of those tasks.

134. Accordingly, this allegation did not establish harassment related to race.

Issue 1(2): instruction to continue working

139. The claimant alleged that on 27 July 2022 a manager angrily pointed at him and instructed him to get up and continue working despite being exhausted.

140. We do not accept the claimant's account of this incident in the form advanced.

141. We find that the claimant was not getting on with his work on that occasion and was told to do so. We accepted the respondent's evidence that ordinary supervisory instructions were given during work.

142. The evidence did not persuade us that there was the angry, intimidating conduct described by the claimant.

143. Nor did the evidence persuade us that any instruction was related to the claimant's race.

144. Even if we were wrong about the precise nature of the interaction, and even if language broadly similar to that alleged was used, there was still no evidence that it was used because the claimant was Arab.

145. We therefore reject this allegation.

Issue 1(3): pallet-moving allegation

147. The claimant alleged that a manager deliberately pulled pallets away before stacking had been completed, requiring him to walk further and making him more tired.

148. We rejected the claimant's account of this allegation in the form alleged. We accepted the respondent's evidence that pallets were ordinarily moved only after they had been fully stacked and wrapped.

149. To the extent that some workplace incident involving pallet movement may have occurred, we were not satisfied that it occurred because of the claimant's race.

150. There was no racial remark. There was no discriminatory reference. There was no evidence connecting any pallet movement to the claimant's Arab ethnicity.

151. We also noted that, even on the claimant's own account, the complaint principally concerned increased inconvenience and work effort. We could not see how the incident, even as described by the claimant, materially supported an allegation that race was the operative reason.

152. Accordingly, this allegation failed.

Issue 1(4): forklift or pallet-truck allegation

158. The claimant alleged that he was struck with the edge of a forklift truck and blamed afterwards.

159. We rejected that allegation and several factors led us to that conclusion.

160. First, the claimant's evidence was inconsistent regarding the identity of the individual involved. We considered those inconsistencies important for the reasons already explained.

161. Secondly, there was no contemporaneous accident report and whilst the absence of such a report is not determinative, it formed part of the overall evidential picture. Particularly where we expected to see such a report and especially, as our assessment of this claimant was such that he would not let such a matter go unreported. Anything, that the claimant might want to use later or, additionally, anything that cast the respondent in a poor light was unlikely to go unrecorded by this claimant.

162. Thirdly, we accepted the respondent's evidence that forklifts were not used in the relevant production and packing areas and that palettes were instead moved with hand trucks.

163. Fourthly, we preferred the evidence of the respondent's witnesses where it conflicted with the claimant's account.

164. Accordingly, we reject the allegation that the claimant was struck by a manager with the edge of a forklift truck as alleged.

165. However, even had some form of minor workplace contact incident occurred, we were not satisfied that it occurred because of race. So, the claim still fails because race was not established as the reason.

Was the conduct related to race?

171. Even taking the harassment allegations collectively rather than individually, we were not persuaded that they were related to race.
    - No discriminatory remark was proved.
    - No racial slur was alleged.
    - No witness was shown to have expressed hostility towards Arabs.
    - There was no reliable comparator evidence supporting an inference of racial targeting.
    - The claimant relied heavily upon the fact that he informed colleagues that he was Arab shortly after commencing employment. We accept that he identified himself as Arab. However, knowledge of a protected characteristic is not sufficient by itself to establish discrimination.

    We looked for evidence that treatment subsequently occurred because of that characteristic and we found none.

172. We also attached significance to the fact that there was no contemporaneous complaint of race discrimination despite the claimant making contemporaneous complaints regarding workload, injury and training issues. Although, that fact was not determinative. However, it was relevant evidence when considering why events occurred.

173. We therefore concluded that the claimant had failed to establish conduct related to race.

Hostile environment?

185. We also rejected the allegation that the conduct relied upon created an intimidating, hostile, degrading, humiliating or offensive environment related to race.

186. Even taking the claimant's account at its highest, the evidence possibly disclosing an employment dispute concerning workload, training, injury, supervision and workplace safety does not establish a workplace atmosphere characterised by racial hostility. Nor did it establish conduct having the necessary connection with race.

187. Accordingly the harassment claims failed.

Our overall conclusions

192. We carefully considered the claimant's submissions. These were claims without merit.

193. The central issue was whether the treatment complained of occurred because of the claimant's Arab ethnicity. After considering all the evidence, we concluded that it did not.

194. We found the claimant unreliable on important disputed matters. We accepted the respondent's evidence and rejected the claimant's account.

195. We found no reliable comparator evidence.

196. We found no discriminatory remark(s). We found no persuasive evidence linking any treatment complained of to the claimant's race.

197.

198. We therefore found no evidence that the claimant was treated differently because he was Arab.

199. The direct race discrimination claim fails.

200. The harassment claim fails.

201. The proceedings are accordingly dismissed.

Approved by Employment Judge Tobin
Dated: 2 October 2026
Written reasons sent to the parties on

5 October 2026

For the Tribunal Office