EMPLOYMENT TRIBUNALS

Claimant: Mr Mazdak Soudbakhsh

Respondent: White Rose Trading CIC

On: 21 July 2026

Before: Employment Judge Ahmed (sitting alone)

At: Leicester (by CVP)

Representation
Claimant: In person
Respondent: Mr Adrian Barnes of counsel

JUDGMENT

JUDGMENT having been sent to the parties on 14 August 2026 and written reasons having been requested in accordance with Rule 60(4) of the Employment Tribunals Procedure Rules 2024, the following reasons are provided.

REASONS

1. This was a preliminary hearing to determine whether any or all of the Claimant's complaints should be struck out as having no reasonable prospect of success or alternatively, whether a deposit should be ordered as a condition of the Claimant being permitted to continue with the complaints if they have little reasonable prospect of success.

2. The Claimant presented his claim to the Tribunal on 8 May 2025 following ACAS early conciliation from 10 to 15 April 2025. The Claimant brings complaints of automatic unfair dismissal for making a protected disclosure, direct race discrimination, harassment, unpaid holiday pay, unpaid expenses and an unlawful deduction of wages in respect of overtime undertaken but not paid.

3. The Respondent is a charitable enterprise that collects pre-owned clothing and accessories for sale mainly through its charity shops.

4. The Claimant is of Iranian origin. He was employed by the Respondent as Fundraising Manager from 1 July 2024 until 28 February 2025. He was engaged on a fixed term contract for 12 months. The contract was due to end on 30 June 2025. However, his employment was terminated earlier than that by reason of redundancy.

5. There have been two preliminary hearings prior to this hearing in order to clarify the allegations and issues. At the first preliminary hearing on 17 November 2025 the Claimant was ordered to provide further particulars of his claim in particular of the disclosures he relied on for his whistleblowing complaints. After he had done so, a second preliminary hearing took place on 13 February 2026. At the second hearing the Tribunal identified that the Claimant relied on two disclosures on 13 and 20 February 2025. There are no other disclosures relied on. The Claimant does not bring a complaint of unlawful detriment for making any disclosures.

6. The Claimant says he blew the whistle about the Respondent's misuse of funds donated pursuant to a grant. The grant was from Npower Business Solutions ("Npower") for approximately £20,000. It was donated to enable the Respondent to purchase clothing banks and some other related expenditure. The Claimant says that by mid-February 2025, some four months after the funds were received, he followed up internally to check that the clothing banks had been purchased so he could report progress to Npower. He says by then the funds had been used for other purposes. He alleges that on13 February 2025 he raised these concerns. He says that he was later informed by another department of the Respondent that the original supplier could not deliver the banks and was provided details of another supplier and asked the funder to approve the change. Despite obtaining approval from Npower the Claimant was told to send another email to the funder containing misleading information suggesting the new supplier was still manufacturing the items and that the project timeline needed to be revised again. This was however not true as the items were ready. The Claimant says he was repeatedly pushed to send this email but he refused to do so as the information was misleading and untrue.

7. The Claimant says he disclosed information that tended to show that the Respondent had breached a legal obligation or committed a criminal act. His disclosures are said to be in the public interest because the Respondent was misleading the funder, and it was not delivering the purpose of the grant which was to improve the environment. The Claimant says that shortly after making the disclosures he was dismissed for redundancy which was a sham as the real reason was the making of the disclosures. Shortly after making the disclosures, the Claimant was dismissed.

8. The two disclosures relied on as protected disclosures are:

8.1 The Claimant's email of 13 February 2025 to Ms Jasmine Freeman of the Respondent and copied to others including Ms Grace Walker (Director and the Claimant's line manager) and Ms Amy Zibek, Head of HR;

8.2 The Claimant's email of 20 May 2025 to Ms Brenda Anthony, Head of Corporate Engagement, copied to Ms Walker and Ms Zibek.

9. The email of 13 February is as follows:

"For your information for any grants and projects I identify funders who support specific fields during certain periods or in particular locations. Once I find a suitable opportunity I prepare a proposal in advance and share it with Lee and Amy to decide whether to proceed with the project. For example, two weeks ago, I worked on another project with Grace and Amy.

Once approved I create an account, and I received the application form and an excel file. I should answer the questions based on the agreed proposal. However, the application for includes more details than the proposal itself. Additionally, I need to fill out the required Excel file(s) as part of the process.

The proposal that Glenn shared with you was an initial the type prepared before applying to Npower. Npower had its own set of application questions and an Excel file that needed to be completed.

Additionally, Glenn has never been involved in any part of this application or grant I only shared the grant opportunity with him before applying to Npower and later sent him the result and later again the proposal as an example of how to list employees' names during the negotiations or establishing the White Rose Hub.

Three days ago, after Brenda decided to change the supplier, I contacted Npower and obtained approval for the change. I also informed them in the report that we are proceeding with the purchase this week.

Furthermore, the application includes a financial calculation estimating how much funding we can generate after implementation, along with projections on clothing collection, CO2 emissions reduction and other key metrics. Moreover, this is restricted funding."

10. On 14 February 2025 Ms Anthony emailed the Claimant as follows:

"As we have just received approval for the change of supplier for the clothing banks, could you please therefore update Npower that as the order has only just been placed the banks are now being manufactured, the payment will not fall due until the supplier they are ready for delivery and going onsite.

Please produce a revised timeline that I would like to approve before it is sent to Npower."

11. On 20 May 2025 Ms Anthony sent a chaser to the Claimant. The Claimant replied on the same day as follows:

"Apologies for the delayed response, especially after your 3 follow-ups. I appreciate your patience.

Regarding your idea to send below text to Npower

**** As we have just received approval for the change of supplier for the clothing banks, could you please therefore update and power that as the order has only just been placed the banks are now being manufactured, the payment will not fall due until the banks are ready for delivery and going on site****

I believe it is quite sensitive and carries several risks. The main concern is that in our previous communication, we mentioned that the second supplier has clothing banks in stock and that we are changing supplies to meet the timeline. However, your suggested texts contradicts our initial e-mail which was already approved by Npower for the supply change.

Additionally, if Npower conducts a simple check by contacting our suppliers regarding the availability of clothing banks, it could potentially raise concerns about our credibility and put us in a difficult position.

I had a meeting with Grace and Amy yesterday where I suggested an alternative approach. Grace will decide on the best course of action and I will follow up accordingly. For now, we have agreed that there should be no further communication with the funder at this stage. Instead the focus should be on securing a suitable locations (sic) for installing the clothing banks."

12. On 28 February 2025 Ms Zibek wrote to the Claimant as follows:

"Further to the conversation held with Grace Walker, Managing Director on Monday 24 February 2025 I write to confirm the details of what was discussed.

As Grace explained having reviewed our new company strategy for 2025 with the White Rose Board of Trustees recently, in respect of company performance, in line with current financials, it was identified that the Fundraising function no longer suits the business needs moving forward.

This therefore means that unfortunately your role is no longer required and that your employment was terminated. As you have been with us for more than six months, you are entitled to one month's notice of termination. Your employment therefore ends on 31st March 2025 and you are not required to work this period, therefore your one month's notice would be paid in lieu of notice."

13. The primary allegation of race discrimination and harassment is that the Claimant was singled and required to put his communications in writing because his line manager said she could not understand him because of his accent. He also alleges discrimination by the Respondent's failure to enrol him in the pension scheme.

14. The holiday pay claim is for holiday pay accrued but not paid. His expenses claim is for expenses incurred for business trips (mileage expenses and rail fares) which he says he undertook on the Respondent's behalf for which he has not been reimbursed.

15. The Claimant's claim for overtime is for a substantial number of hours he says he worked over and beyond his contractual hours for which he has not been paid.

16. The Respondent's position is that the Claimant was on a fixed term contract but it was necessary to dismiss him prior to the end of the term due to a severe downturn in revenue. The business had tried several rescue packages before then. One of the Directors had made personal contributions to overcome cash flow difficulties. Unfortunately, it was necessary to cut costs and several changes had to be made to the business and its structure. Several members of the team were made redundant, including the Claimant, and some jobs were amalgamated. The Claimant's role was taken on by a Director, who had undertaken previously. The

Respondent accepts that due to an administrative oversight that the Claimant was not added to the pension scheme at the correct time. The Respondent offered to correct this but the Claimant did not want to pay his portion of the pension contributions. The Claimant had brought this to the Respondent's attention until after termination of employment.

17. In respect of any outstanding holiday pay, the Respondent's position is that annual leave could only be carried forward in certain circumstances, none of which applied to the Claimant. The Claimant had opportunities to take his leave but made several comments to the effect that he did not wish to take leave. In any event the Claimant who has been given an opportunity to particularise his claim had failed to identify what if any leave was still outstanding.

18. The complaint of an unlawful deduction of wages is resisted on the grounds that whilst the Claimant may have worked extra hours in addition to his contractual hours he was required to obtain prior authorisation before any overtime was undertaken. The business could not afford to let employees sanction their own overtime. The Claimant did not obtain any prior authorisation.

19. The expenses claim is rejected on the basis that the Claimant failed, firstly to obtain authorisation before incurring the expense, secondly that he was not required to undertake the travelling as part of his duties and thirdly that he never submitted any expense claims during his employment which was a precondition of payment.

20. It is accepted that Ms Walker asked the Claimant for information to be written down but says that this was asked of everybody not just the Claimant. The purpose of putting things in writing was to ensure that there was a proper record and was a general practice not limited to the Claimant only.

21. The parties entered into a contract of employment dated 19 June 2024. It contains the following clauses:

Overtime
You may be required to work overtime or additional hours when authorised and as necessitated by the needs of the business."

Expenses
White Rose shall reimburse you all reasonable business-related travelling and other out of pocket expenses properly incurred by you in or about the performance of your duties and for which receipts or other supporting documents are provided to the reasonable satisfaction of White Rose. All expenses require prior approval by your line manager through our expenses system, if they are to be reimbursed by White Rose.

THE LAW

22. Section 43A of the Employment Rights Act 1996 ("ERA 1996") states:

"In this Act a "protected disclosure" means a qualifying disclosure (as defined by section 43B) which is made by a worker in accordance with any of sections 43C to 43H."

23. Section 43B of the ERA 1996 (so far as is relevant) states:

(1) In this Part a "qualifying disclosure" means any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the following—

(a) that a criminal offence has been committed, is being committed or is likely to be committed;

(b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,"

24. To succeed with any whistleblowing claim a Claimant must first show they have made a qualifying disclosure as defined above. This comprises the following elements:

24.1 there must be a disclosure of 'information';

24.2 the Claimant must genuinely believe the disclosure was in the public interest; and,

24.3 the Claimant must have a reasonable belief that information showed one or more of the matters set out in section 43B.

25. Section 103A of the Employment Rights Act 1996 provides that:

"An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee made a protected disclosure"

26. Rule 38 of the Employment Tribunal Rules 2024 so far as is material states:

(1) The Tribunal may, on its own initiative or on the application of a party, strike out all or part of a claim, response or reply on any of the following grounds—

(a) that it is scandalous or vexatious or has no reasonable prospect of success;

27. When deciding whether to strike out a claim or response, the Tribunal must first consider whether any of the grounds set out in Rule 38(1) have been established and then, having identified any established grounds, consider whether to exercise its discretion as to strike out. The second stage exercise is important as the discretionary element reduces the risk of claims or responses being struck out where they potentially have merit.

28. For the Tribunal to find there is no reasonable prospect of success the Tribunal is required to take the Claimant's case at its highest. It is not permissible for the Tribunal to conduct a mini-trial of what should properly form part of a final hearing.

29. In **Anyanwu and another v South Bank Student Union and another** [2001] ICR 391 the House of Lords stressed the importance of not striking out discrimination claims except in the most obvious cases as they are generally fact-sensitive and can only be determined after evidence has been heard.

CONCLUSIONS

30. I shall deal firstly with the whistleblowing complaint. It is for the Claimant to show that he has made a disclosure of information and not simply made an allegation.

31. Taking it at its highest the Claimant might be said to be disclosing information in the first email that the funding Npower had provided was ‘restricted funding’ in the sense that it was limited to the purpose for which it was given.

32. In the second email, again taking the claim at its highest, it is arguable that the Claimant is disclosing information that his employer’s position may be seen as inconsistent with previous communications to Npower.

33. Neither email however discloses any breach of a legal obligation nor the possibility of a criminal offence. These are routine emails in the usual everyday exchanges of work where an employee may point out that any funding cannot be used for anything else. The email does not say that funding has in fact been used for something else nor is there any evidence that it was.

34. For an employee to say that his employer has given or is giving an inconsistent message is also not disclosing a breach of a legal obligation or anything relating to the commission of a criminal offence.

35. There is nothing to suggest that any of the funds were actually received. Ms Anthony’s email seems to suggest that payment will not fall due until the supplier is in a position for delivery. The Claimant is unlikely in my view to be able to meet the requirements of section 43B ERA 1996.

36. It must be the disclosures themselves that are the principal reason for the dismissal. I do not consider that there is any reasonable prospect that the Tribunal will find that any disclosures (if established as protected disclosures) were the principal reason for the dismissal. On the face of it there was a redundancy situation. The Claimant’s job had disappeared due to shortage of funds. The Claimant was not the only employee made redundant. It is difficult to see how the Claimant will be able to show that the entire redundancy process was a sham. Effectively, he will be asking the Tribunal to be satisfied that both his and other redundancies were an exercise to cover up the ‘disclosure’ he had made.

37. The complaint of automatic unfair dismissal does not in my judgment have any reasonable prospect of success. It is appropriate to strike out the complaint.

38. I now turn to the complaints of unpaid expenses and overtime. The Claimant was required to obtain prior approval to undertake overtime and to incur expenses which he failed to do. They are therefore not properly payable under the terms of the contract.

39. The claim for unpaid holiday pay appears to be in relation to annual leave that the Claimant says he should have been allowed to carry over from 2024 into 2025. Annual Leave could only be carried forward for a maximum of 5 days in exceptional circumstances only and only if allowed in the sole discretion of the Respondent.

40. The Claimant appears to have lost his accrued leave for 2024 when he failed to take 5 days leave and in circumstances when there was no agreement to carry it over. He was paid 26.5 hours for 2025.

41. There is nothing to suggest that the 2025 annual leave calculation is incorrect and what was due up to the end of February 2025 has been paid. The issue is whether the Claimant can carry over 2024 leave. In the light of the contractual provisions, and in the absence of any legal right to carry over, there is no reasonable

prospect of the Claimant establishing a right to carry over unused leave. That complaint will therefore be struck out.

42. Mr Barnes realistically accepts that in the light of the authorities, such as **Anyanwu,** it would not be appropriate to strike out the discrimination or harassment complaints or to make a deposit order as they are dependent on the determination of fact-sensitive issues. I do not need therefore to make a determination on those issues. The discrimination and harassment complaints shall go forward to a final hearing without a deposit order.

Approved by:

Employment Judge Ahmed

Dated: 15 September 2026

Sent to the parties on

...07 October 2026.....

For the Employment Tribunal

...Elliot Barker.....

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