Case Number: 6004316/2025

EMPLOYMENT TRIBUNALS

Claimant: Ms A Knight
Respondent: Quack Recruitment and Training Ltd

Heard at: Watford
On: 17 July 2026
Before: Employment Judge Dick

Appearances
For the claimant: In person
For the respondent: Mr Bishop

JUDGMENT was sent to the parties on 17 July 2026 and written reasons were requested in accordance with Rule 60 of the Employment Tribunal Procedure Rules.

FULL REASONS

1. The claim in this case was presented, in time, on 9 February 2025. In short, the claimant says that she was offered a job by the respondent and, in reliance upon that, resigned from her then-current job. But when she arrived for work on what was to be her first day, she was told there was no job for her.

2. There were originally complaints relating to age discrimination, notice pay, holiday pay, arrears of pay and other payments, but all except the complaints of breach of contract and other payments were dismissed upon withdrawal following a preliminary hearing before Employment Judge Spencer on 13 January 2026. In his orders following that hearing, EJ Spencer noted the following:

> Notice pay:
>
> 31. The claimant maintained that this claim was pursued. However, she was unable to point to any term of her contract (either written or oral) that required the respondent to give a minimum period of notice to terminate her employment.
>
> […]

Other payments (Wrongful dismissal):

34. The claimant confirmed that she still pursues this claim. However, she was unable to point to any term of her contract (either written or oral) that she says was breached by the respondent.

35. The following complaints remain:

35.1 Notice pay;

35.2 Other payments – wrongful dismissal

3. The case was listed before me on 17 July 2026. It had been listed as a final hearing, though as the respondent had not presented a response in time, the respondent had been warned about the consequences of rule 22. I applied rule 22(3) and permitted Mr Bishop to participate in the hearing to the extent that I heard submissions about whether I should permit the respondent to participate in the rest of the hearing. I declined to allow the respondent to participate any further. I gave oral reasons for that decision and have not been asked to provide reasons in writing. Mr Bishop did stay on for the rest of the hearing as an observer.

4. I did not need to hear oral evidence from the claimant – her case was clear from her written statement and the comprehensive bundle of other evidence she had provided. While I was doing the reading, I had the parties sent a copy of the report in *Sarker* v *South Tees Acute Hospitals NHS Trust* [1997] ICR 673, since it appeared to me to be relevant to the decision I would have to make. I formally admitted the claimant's statement into evidence and then heard submissions from her. I gave summary oral reasons for my decision to dismiss the claim. Having been requested to provide written reasons, I decided to provide full written reasons.

THE FACTS

5. In making my factual findings, I took account of the claimant's statement and all of the bundle of other evidence, save that I did not consider any of the correspondence with Acas. I found the following facts on the balance of probabilities.

6. I accept that the claimant's statement is an accurate version of events, and based upon it I found the following. On 18 November 2024 (all the dates I will use are in 2024) the claimant attended a job interview with the respondent. The interview was successful and she received an offer letter on 21 November. That letter offered the claimant work on a self-employed basis. The claimant then contacted the respondent's Mr Bishop to say that she did not want to work on a self-employed basis. On 22 November a revised letter was sent to the claimant. The claimant accepted that offer just after 5pm, 22 November, confirming, as the parties had already anticipated, that her start date would be 2 December. The claimant informed her then-employer that she was intending to leave that employment, and formally resigned. She left that employment on 29 November.

7. On 2 December, the claimant attended work at the respondent's premises as she had been expecting to start her new job. She could not initially get access to the building, although eventually she did manage to get in. Around 8.45 a.m. she received a response to an earlier message she had sent to Mr Bishop. Mr Bishop's message said that he had been away on holiday and suggested that the claimant return home and await his call. That call took place later the same day, 2 December, and Mr Bishop explained to the claimant that she would not, in fact, be starting work on 2 December because of what the claimant recalls Mr Bishop saying was "an investigation by the local council". After that, there is no dispute that the claimant, in fact, never worked for the respondent.

8. I make the following further findings based on the documents in the bundle. At page 117 was the revised offer from the repondent, i.e. once the claimant had said that she did not want to work self-employed. The offer letter is on the respondent's headed notepaper, with the subject: "Formal Job Offer: Multiply Tutor Maidstone, Kent". So far as is relevant, it says the following:

> "We are pleased to offer you a position within our business, I will outline our proposal below.
>
> Role offered: Tutor
>
> Start date: 2 December 2024 (*however this can be flexible*)
>
> Pay type: PAYE – Permanent
>
> Starting pay rate: £33,000 pa (for the initial three month probationary period, with increases based on successful probationary period completion."

9. The letter was sent in an email dated 22 November 2024 which described it as a revised job offer. Note that although the start date was said there to be flexible, as I have said above the claimant then accepted the offer with that 2 December start date.

10. At page 181 of the bundle was the original offer of self-employment which, apart from offering self-employment and a slightly different pay rate, was in materially the same terms as the later offer. It was also described as a job offer.

11. As part of these findings of fact, I am going to address one point that is raised by the respondent in its response. Although I barred the respondent from participating and the response was never accepted, the response is included in the bundle that I have been asked to consider and so I think it is appropriate to consider the following, for the avoidance of doubt. The response asserts that the offer made to the claimant was conditional upon confirmation of funding from the local authority. The response does not set out what words are said to have been used to make clear that the offer was contingent, and, as I have already described, and as I find as a fact, the offer sent to the claimant contained no condition that the offer was contingent upon funding. That applies to the emails that attached the offer letter, the offer letter itself, and the original offer letter. So, I do not accept the suggestion that the offer of employment, which was accepted by the claimant, was made conditionally.

THE LAW

Breach of contract

12. By operation of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994/1623, an employee may complain to an Employment Tribunal about a breach, by their employer, of their employment contract, provided that the claim arises or is outstanding on the termination of their employment (subject to some exceptions that do not apply to this case).

13. One such breach could be failure to give notice, a "wrongful dismissal", which occurs where an employee is dismissed without notice where summary dismissal was not justifiable. (Summary dismissal will be justifiable in, for example, cases of gross misconduct, but there is clearly no suggestion on the facts of this case that it was justifiable.)

Notice period

14. A notice period may be specifically provided for in a contract; this is known as a "contractual notice" period. Where s 86 Employment Rights Act 1996 ("ERA") applies, what is known as a "statutory notice" period will apply:

> 86.— Rights of employer and employee to minimum notice.
>
> (1) The notice required to be given by an employer to terminate the contract of employment of a person who has been continuously employed for one month or more—
>
> (a) is not less than one week's notice if his period of continuous employment is less than two years,
>
> (b) is not less than one week's notice for each year of continuous employment if his period of continuous employment is two years or more but less than twelve years, and
>
> (c) is not less than twelve weeks' notice if his period of continuous employment is twelve years or more.
>
> …
>
> (3) Any provision for shorter notice in any contract of employment with a person who has been continuously employed for one month or more has effect subject to subsections (1) and (2); but this section does not prevent either party from waiving his right to notice on any occasion or from accepting a payment in lieu of notice.
>
> …

15. As sub-section (3) makes clear, when there is both a contractual and statutory period, whichever is the longer of the two will apply – the parties cannot "contract out" of the statutory notice period.

Start of employment

16. Section 211 of the ERA says: "An employee's period of continuous employment

for the purposes of any provision of this Act… begins on the date on which the employee starts work." So that applies for the purposes of calculating the period of continuous employment for the purposes of s 86 above. It does not say when employment starts for any other purposes. A decision which is relevant here is *Sarker* (above), which in my judgment, is authority for the following. When an unconditional offer of employment is made and accepted, a person is then, for legal purposes, an employee and is subject to an employment contract. When the employer withdraws their offer of employment in those circumstances, even where the employee has not yet formally started work, there is a termination of employment which engages this Tribunal's jurisdiction to consider whether there has been a breach of contract.

17. Another point raised in the response is an assertion that a case called *White* v *Troutbeck SA* [2013] EWCA Civ 1171 confirms that employment does not commence where no work had been done and no instructions had been received. I can deal with that point very simply. I have read the case and it says no such thing in my judgment.

CONCLUSIONS

18. Although two legal causes of action were identified at the preliminary hearing, they seem to me to relate to the same point: if the claimant was contractually entitled to a period of notice, but was dismissed without being given that notice, that would have been a breach of contract of the sort otherwise known as a wrongful dismissal (unless the respondent was entitled to dismiss without notice – plainly not an issue here) and the claimant would be entitled to recover damages for what should have been her notice pay. The claimant was not able to point to any term which may have been breached by the respondent aside from any notice requirement, so the real issues here were: (i) was there an employment contract and, if so (ii) was the claimant contractually entitled to notice.

19. In my judgment, applying *Sarker*, there was an employment contract. I further find that the claimant had, in fact, started work on 2 December by attending at the respondent's premises being ready to work.

20. However, the difficulty the claimant faces is this: the terms of the employment contract are, I find, as is set out at page 117 of the bundle (para 8 above). There is no period of notice set out in those terms. I do not accept the claimant's submission that the reference to a probationary period in the offer letter can somehow import a notice period into the contract. Nor is a notice period imposed by the operation of section 86 of ERA. That is because statutory notice only applies where someone has been continuously employed for one month or more. On any view, that cannot apply to the claimant. Even if one were to take the start of employment as the date the contract was agreed, in other words, when the offer was accepted by the claimant, she still cannot have been employed for a month. But that is not the correct approach. Section 211 of ERA says that for the purposes of calculating the length of continuous employment, employment begins on the date which the employment starts work. The parties clearly agreed a start date of 2 December and that is when the claimant in fact started. 2 December must also be, I find, the date the claimant's employment ended – she

was told there was no work for her and she never returned to the respondent's premises. So the employment both started and finished on 2 December. Her period of continuous employment was one day, i.e. less than one month. Plainly the claimant was not given notice of the termination of her employment, but there was no contractual or statutory requirement to give notice.

21. The inescapable conclusion is that in terminating the claimant's contract without notice, the respondent in fact was not in breach of any of the terms of that contract. Whether or not one styles the claimant's claim as breach of contract or as a wrongful dismissal, in either case the claimant's case can only succeed where there was a breach of a term of the contract and, in this case, there was no such breach. That leads to the inevitable finding that I must dismiss the claim.

22. I will end by saying that I have some sympathy for the claimant here. She left her previous employment on the basis of the agreement that she had reached with the respondent and incurred some obvious financial loss as a result of having done that. That need not have happened if the respondent had had the courtesy to tell her the week before that she would not be starting work. But, ultimately, as I have said, in the absence of a beach of contract I have no power to award damages for breach of contract. So, the judgment of the Tribunal is that the claim must be dismissed.

Approved by:

Employment Judge Dick

8 October 2026

SENT TO THE PARTIES ON

9 October 2026

FOR THE TRIBUNAL OFFICE

Notes

All judgments (apart from judgments under Rule 51) and any written full 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.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here: www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/