EMPLOYMENT TRIBUNALS

Claimant: **Miss M Macaulay**

Respondent: **First Agency Direct Limited**

Heard at: **Bristol Employment Tribunal** **On: 25 September 2026**

Before: **Employment Judge Ferguson**

Representation
Claimant: In person
Respondent: Mr Ushiagu, senior consultant, Peninsula

JUDGMENT

It is the judgment of the Tribunal that:

1. By consent, the name of the Respondent is amended to First Agency Direct Limited.

2. The Claimant's complaint of unfair dismissal is dismissed upon withdrawal.

3. The Claimant was dismissed in breach of the requirement to give notice and is awarded damages of £1,676.60.

4. The Respondent made an unauthorised deduction from the Claimant's wages and is ordered to pay the Claimant £652.00.

5. The Claimant's claim for breach of contract relating to expenses succeeds in part, and the Respondent is ordered to pay the Claimant £19.00.

6. The Respondent must pay the Claimant the total amount of **£2,347.60**.

7. The Respondent's counterclaim is dismissed.

SUMMARY REASONS

JUDGMENT with summary reasons was given at the hearing on **25 September 2026** and written summary reasons were requested at the hearing in accordance with Rule 60 of the Employment Tribunal Procedure Rules. The following written summary reasons are therefore provided:

1. By a claim form submitted on 22 August 2025 the Claimant brought complaints of unfair dismissal, wrongful dismissal (notice pay), unauthorised deduction from wages and breach of contract (expenses).

2. The Tribunal sent the Claimant a strike-out warning in relation to her unfair dismissal claim because according to her claim form she did not have two years' service. She responded, alleging automatic unfair dismissal due to asserting a statutory right or raising a health and safety concern.

3. The Respondent denied all claims. It appointed Peninsula as its representative.

4. A Notice of Preliminary Hearing was sent to the parties on 1 March 2026. The Notice said that a three-hour hearing would take place in person at Bristol Employment Tribunal on 25 August 2026. The Notice included the following:

> *4. At the hearing, an Employment Judge will determine*
>
> *a. All the Claimant's claims other than unfair dismissal;*
>
> *b. The Respondent's counterclaim;*
>
> *c. whether the Claimant can claim automatic unfair dismissal, whether with or without any amendment.*
>
> *5. You or a representative must come to the hearing. Even if you have a representative, you are encouraged to come to the hearing yourself. If you do not come to the hearing yourself, your representative must fully understand your case and be able to answer any questions they are asked about it.*
>
> *6. You must bring a copy of the claim form, the response form and any other relevant documents to the hearing.*
>
> *…*
>
> ***Case Management***
>
> *9. 1. Mutual disclosure of documents between the Claimant and the Respondent **30 March 2026**.*
>
> *2. Respondent to prepare Preliminary Hearing bundle **13***

> ***April 2026**, sending an electronic copy to the Claimant and the Tribunal, no more than 200 pages.*
>
> *3. The Respondent to bring hard copies of the bundle to the Preliminary Hearing.*

5. The text at paragraph 5 is usually only included in notices of private preliminary hearings for case management. It is likely to have been included as a copy and paste error by the Tribunal administration.

6. It appears the parties did not comply with the case management order for disclosure of documents. On 14 April 2026 the Respondent sent a PDF entitled "PCM Bundle". This included only the claim form, response, Tribunal correspondence and a draft list of issues.

7. On 24 August 2026 the hearing was postponed at the Respondent's request, due to illness of the file handler at Peninsula. On the same day the Claimant wrote to the Tribunal and the Respondent giving her availability for a re-listed hearing, and asking for clarification of the Tribunal's directions. She said that she had evidence of WhatsApp messages, contractual documents, payslips and other records relating to the matters set out in her ET1, and that such documents did not appear to be included within the documents disclosed by the Respondent (i.e. the "PCM Bundle"). She asked if there was anything further she needed to do before the hearing.

8. The preliminary hearing was re-listed on 25 September 2026. The letter from the Tribunal said:

> *The 3-hour preliminary hearing **to determine the issues set out in the Tribunal's letter dated 1 March 2026** has been re-listed and will take place on 25 September 2026…* (emphasis added)

9. On 22 September 2026 the Tribunal wrote to both parties as follows:

> "Employment Judge Livesey has considered the Claimant's email of 24 August.
>
> In accordance with the directions in the Notice of Hearing of 1 March, the Respondent ought to have compiled a bundle of relevant documents with your input/agreement, but those documents ought only to be relevant to **the claims which are to be determined at the forthcoming hearing (in relation to notice and wages)**. If documents have been omitted from the bundle which are relevant to those matters, you should contact the Respondent immediately.
>
> If an unfair dismissal claim is to be allowed to proceed after the other matters have been dealt with, it will be listed for a further, separate hearing." (emphasis added)

10. On the same day the Claimant wrote to the Respondent's representative saying that when the bundle was first made available to her she was not aware that she was expected to agree the contents and identify anything missing. She listed 23 documents that she had and said were relevant to her claim. She asked how the Respondent would like her to provide them so they could be added to the bundle. The Respondent does not appear to have responded to that email.

11. The hearing took place on 25 September 2026. Mr Ushiagu attended on behalf of the Respondent. The Respondent had still not disclosed any documents to the Claimant or prepared a bundle containing any documents relating to the matters listed for determination at the hearing. Mr Ushiagu said the Respondent thought the hearing was for case management only.

12. The Claimant brought her own bundle containing 24 documents. A copy was given to Mr Ushiagu at the start of the hearing. Around 50 minutes was spent during the hearing going through the documents and establishing with the Claimant exactly what her complaints were.

13. The Claimant claims:

    13.1. £2,151.60 in respect of one month's notice pay, less £475 received from the Respondent.
    13.2. Unauthorised deduction from wages of £652.
    13.3. Unpaid expenses: £60 in respect of uniform that the Claimant says she had to buy because the Respondent was meant to provide one, but this kept getting delayed. £19 in respect of her GDC subscription fee.

14. The hearing was then adjourned to allow the Respondent to take instructions, and to enable the parties to explore whether the matter could be resolved. After an adjournment of an hour, the hearing resumed. Mr Ushiagu said that he had taken instructions, the matter had not resolved, and he applied to adjourn the hearing on the basis that the Notice of Preliminary Hearing suggested it was a hearing for case management only, and the Respondent had not prepared for a substantive hearing. It did not have any witnesses present or any documents. He said he had some instructions to dispute the Claimant's account of events, saying that the Respondent's records suggested she only worked 5 days in May 2025, and that the deduction of £652 in her May payslip was not in fact for sickness, despite what the payslip said, but was for on-call days. He did not know why the payslip referred to sickness or how the amount of pay shown before the deduction had been calculated.

15. I refused the application to adjourn. I considered the Respondent unreasonably proceeded on the basis that the hearing was for case management only, without even attempting to check the position with the Tribunal. The Notice of Preliminary Hearing, the letter re-listing the hearing and the Tribunal's correspondence of 22 September 2026 all made it clear that the hearing was listed to <u>determine</u> the money claims. I accepted that the case management orders could have been clearer, but Peninsula are very

experienced in Employment Tribunal litigation and ought to have realised the Tribunal clearly intended the hearing to be a public preliminary hearing to determine the money claims. They ought to have prepared on that basis and ensured that any witnesses it wished to call attended the hearing. Even if paragraph 5 of the original Notice caused some confusion, the Respondent could have checked the position with the Tribunal. The Respondent then took no action in response to the Claimant's email listing the documents she wished to rely on. To the extent that the Respondent was limited in its ability to respond to the Claimant's documents produced on the day of the hearing, that was a problem of its own making. In any event, the Respondent was given time, both by going through the documents together at the start of the hearing, and then during the hour's adjournment, to consider them and take instructions. Even after taking instructions, it was not at all clear what the Respondent's case was, or whether there was any substantive challenge to the facts put forward by the Claimant.

16. In those circumstances I concluded it was not in the interests of justice to adjourn the hearing. It would involve a second postponement, to the considerable detriment of the Claimant who had done her best to comply with the Tribunal's orders as a litigant in person. The Respondent's conduct, or that of their representatives, had not been in accordance with the overriding objective or what the Tribunal would expect of a represented party. Further, given that the Respondent's case was still unclear, I was not satisfied there was any substantial prejudice to the Respondent by proceeding. As already noted, the difficulties in participating in the hearing were entirely due to the Respondent failing to comply with orders and cooperate properly with the Tribunal and the Claimant.

17. I heard evidence from the Claimant. The Respondent chose not to cross-examine her. I make the following findings of fact:

    17.1. The Claimant commenced employment with the Respondent as a dental nurse on or around 21 March 2025.

    17.2. She became a permanent employee on or around 1 May 2025.

    17.3. She was dismissed without notice on 21 May 2025. This took place by email from Ellie King, Recruitment Manager, at 17:45, in response to the Claimant's grievance of the same day. She wrote, "We believe it would be in the best interest of both parties to bring your probationary period to a close ending your employment with us. We thank you for your time with us and wish you all the best for the future."

    17.4. The Claimant was entitled to one month's notice under the contract (not in dispute).

    17.5. Based on her May 2025 payslip, she was paid £1,434.40 for the work she carried out in May 2025 (1 to 20 May 2025).

    17.6. £652 was deducted from her May 2025 pay, purportedly for

"sickness".

17.7. It was agreed as part of the Claimant's contract of employment that the Respondent would pay her GDC subscription fee of £9.50 a month. That is consistent with the annotation on the contract and the fact that it was paid in May 2025. The Respondent did not pay the Claimant for this in March or April 2025, in breach of contract.

17.8. I am not satisfied that there was any contractual agreement entitling the Claimant to be reimbursed for uniform that she chose to buy when there was a delay in the Respondent providing uniform to her.

17.9. The Respondent paid the Claimant £475 on 7 August 2025.

18. The Claimant confirmed in closing submissions that she did not wish to pursue any complaint of unfair dismissal.

19. I am satisfied on the basis of the facts above that all of the Claimant's complaints succeed with the exception of the claim for breach of contract relating to the uniform. I find that the amount of pay the Claimant ought to have received for her notice period was £2,151.60. This is on the basis that she was paid £1,434.40 for 2/3 of the month that she worked in May 2025. A whole month's pay therefore equates to £2,151.60. As for the deduction of £652, the Respondent has not put forward any lawful basis for it.

20. Although the Notice of Hearing referred to determination of the Respondent's counterclaim, the Respondent did not pursue this at the hearing or adduce any evidence. There was no valid counterclaim to consider. To the extent that the Respondent alleges in its ET3 that the Claimant resigned in breach of a requirement to give notice, I have found that the Claimant was dismissed, so the counterclaim must be dismissed.

Approved by:
Employment Judge Ferguson
28 September 2026

JUDGMENT SENT TO THE PARTIES ON
27 October 2026

Notes

Written full reasons will not be provided unless requested by any party by a written request received by the Tribunal within 14 days of the sending of the written summary reasons.

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/