Case Number: 3300523/2025

EMPLOYMENT TRIBUNALS

Claimant:	Miss R Pettifer
Respondent:	Cloudkubed Limited (In Adminstration)
Heard at:	Reading (video hearing) **On: 18 September 2026**
Before:	Employment Judge Gumbiti-Zimuto

Appearances
For the Claimant: In person
For the Respondent: No response and not attending

FULL REASONS

[*For Judgment sent to the parties on 29 October 2026 provided at the request of the claimant*]

1. This matter came before me as a Rule 22 liability and remedy hearing following the respondent's failure to present a valid response. The administrator having given permission for the claim to proceed.

2. In accordance with Rule 22, I determined the claim on the basis of the claimant's witness evidence, documentary material, and Schedule of Loss.

3. The claimant, Ms Rebecca Pettifer, provided a detailed witness statement setting out her employment history, the contractual payments owed to her, the circumstances surrounding her suspension, her whistleblowing disclosure, and the subsequent termination of her employment under a Settlement Agreement dated 26 November 2024.

Settlement Agreement

4. The Settlement Agreement was formally valid under section 203 ERA 1996, so the employer's failure to pay did not automatically void it. The key issue is when the claimant's waiver of claims was intended to take effect: immediately on signing, or only once the settlement payments were actually made.

5. Reading the agreement as a whole, the waiver formed part of a reciprocal exchange. The employer's obligations and the employee's waivers were

repeatedly linked to the *receipt* of the settlement benefits, not merely the promise to pay. Clauses such as 6.1, 2.7, and the Background section demonstrate that the agreement's commercial purpose was an exchange of rights and benefits, not a gratuitous release. The structure of the contract made the employer's payment obligations conditional on the claimant performing her obligations, indicating that both parties intended reciprocal performance.

6. The employer paid nothing and entered administration within days of the settlement agreement. I construe the waiver of claims as contingent on actual payment. Treating the waiver as effective despite total non-payment would produce an absurd result: the employee irrevocably loses all statutory claims while receiving nothing, and is left only as an unsecured creditor.

7. Accordingly, there was a complete failure of consideration, preventing the release from becoming operative.

8. Alternatively, the employer appears to have entered the agreement knowing it could not and would not pay. Signing the agreement shortly before entering administration, without informing the claimant, amounted to an implied misrepresentation that the employer intended and was able to perform its payment obligations. Since the directors already knew administration was inevitable, this may constitute fraudulent or negligent misrepresentation.

9. I considered each head of claim separately.

Holiday Pay – £7,955

10. The claimant's employment contract entitled her to paid annual leave. The Settlement Agreement expressly recorded that she had 15 days' accrued but untaken holiday, valued at £7,955, which CloudKubed agreed to pay.

11. The respondent entered administration before making any payment, and no holiday pay was ever received.

12. I therefore accepted the claimant's unchallenged evidence and contemporaneous documentation confirming the amount owed. As the respondent failed to pay the contractual holiday entitlement, I find the claim well founded and award £7,955.

Unpaid Wages / Commission – £15,388

13. The claimant's commission arrangements were formally documented and confirmed in writing. The Settlement Agreement recorded that CloudKubed owed her £15,388 in commission, which remained unpaid at termination.

14. I accepted the claimant's evidence that: Commission balances did not extinguish automatically on termination and the respondent expressly agreed to pay the outstanding commission. No payment was made.

15. I therefore found that the respondent failed to pay wages due under the contract and awarded £15,388.

Breach of Contract – £25,000

16. The claimant relied on several contractual breaches, including failure to pay sums expressly agreed in the Settlement Agreement; Failure to honour contractual remuneration arrangements, including the signing bonus instalments (£150,000 outstanding). The respondent owed the claimant specific contractual sums. None of those sums were paid due to the respondent entering administration.

17. Given the respondent's complete non-performance of the agreed contractual obligations, I am satisfied that a substantial breach of contract occurred. The Tribunal can only award a limited amount in respect of breach of contract I therefore made the award £25,000 for breach of contract.

Unfair Dismissal and protected disclosure

18. The claimant's claim for unfair dismissal cannot succeed because her employment came to an end by agreement on 26 November 2026. That cannot be construed as a constructive dismissal because it was not a resignation. The claimant does not assert that she was expressly dismissed by the respondent, nor does she state that she was dismissed by reason of redundancy or the administration.

19. The claim relating to unfair dismissal and whistleblowing detriment were not made out on the evidence available.

Total Award

20. I therefore made the following awards: Holiday pay: £7,955, Unpaid wages / commission: £15,388 and Breach of contract: £25,000. The **Total due to the claimant is £48,343.00**

Approved by:
Employment Judge Gumbiti-Zimuto

Date: 3 November 2026

Sent to the parties on: 3 November 2026

For the Tribunals Office

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

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/