



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs T. Penicela

**Respondent:** Sanctuary Care Limited

**Heard at:** Watford

**On:** 20 March 2019

**Before:** Employment Judge McNeill QC

## **Appearances**

For the claimant: In person

For the respondent: Mr C. Edwards, Counsel

## **JUDGMENT – Rules 37 and 39 of the Employment Tribunals Rules of Procedure**

Upon the Respondent confirming that it did not apply for a strike out or deposit order in relation to the Claimant's claims for race discrimination and victimisation:

1. The Claimant's claim for breach of contract is struck out on grounds that it has no reasonable prospect of success.
2. The Claimant's claim that she was constructively dismissed has no reasonable prospect of success and is struck out. Her dismissal claim will proceed only as a claim for automatically unfair dismissal pursuant to s103A of the Employment Rights Act 1996 and on the basis that the Claimant was dismissed by the Respondent on 9 January 2018.
3. The Claimant's claims that the matters, set out at paragraphs 5.1.4, 5.1.5 and 5.1.2(b) in the Disclosures Table at paragraph 39 of the Claimant's witness statement dated 6 February 2019, amount to qualifying disclosures within the meaning of s43B of Employment Rights Act 1996 have no reasonable prospect of success. That part of the Claimant's claim for automatic unfair dismissal which depends upon the assertion of a link between the matters at paragraphs 5.1.4, 5.1.5 and/or 5.1.2(b) and the Claimant's dismissal is therefore struck out as having no reasonable prospect of success.
4. The Claimant's remaining claims are permitted to proceed to a full merits hearing.
5. No deposit orders are made.

**Employment Judge McNeill QC**

Dated: 20 March 2019

Sent to the parties on:

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For the Tribunal:

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**Reasons having been given orally at the hearing, written reasons will not be provided unless a request is presented by either party within 14 days of the sending of this written record of the decision.**