**CASE NO. TBC**

**IN THE LEEDS EMPLOYMENT TRIBUNAL**

**B E T W E E N:**

**DAVID JONES**

**Claimant**

**and**

**A MANUFACTURED (MANUFACTURING) COMPANY LIMITED**

**Respondent**

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**GROUNDS OF CLAIM**

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 **Background**

1. The Claimant was employed by the Respondent for twelve years. The Claimant’s job title was Welder.
2. The Claimant resigned from his employment, with immediate effect, on 21 December 2102.
3. The Respondent is a medium-sized company which undertakes various manufacturing work for the car industry. The Respondent is based at the Fictitious Business Centre, Lanchester, XX1 9&% (“the Premises”).

**The Assault**

1. On 12 December 2102, at around 4pm, the Claimant was assaulted by his colleague, Abid, at the Premises during work time. Prior to the assault at work, the Claimant had been welding stainless steel boxes. Suddenly and without warning or provocation, Abid sprayed bleach into the Claimant’s face. The Claimant had his welding mask up at the time of the assault i.e. not covering his face. As a result, the bleach landed below the Claimant’s eyes. The Claimant screamed, as he was in a great deal of pain.
2. The assault at work was witnessed by a foreman, James Thirsk, who left the scene of the assault without providing any assistance to the Claimant. The First Aider refused to provide first aid.
3. The Claimant found the first aid box by himself and discovered that there was no eye wash in the box. In agony, the Claimant washed his eyes with water and then telephoned the Police.
4. The Police attended the Premises and arrested Abid. The Police retained the Claimant’s clothes as evidence and took photographs of the Claimant’s injuries. The Police expressed incredulity that the Respondent’s employees had not administered first aid nor summoned an ambulance.
5. Therefore, the Police called for an ambulance, which attended, and took the Claimant to Lanchester General Hospital upon where the wounds were treated. The Claimant was referred to the burns unit.
6. Due to the injuries sustained in assault at work, the Claimant was absent for the following two weeks.

**Investigation meeting and the Claimant’s return to work**

1. Upon the Claimant’s return to work on 18 December 2102, the Claimant attended a meeting with the three director-shareholders: Mr Smith, Mr Jones and Mr Bean. The first question that the director-shareholders asked the Claimant was whether he was fit to work. The next question was why the Claimant had contacted the Police. Neither before, during or after the meeting, did the Respondent ask the Claimant about his injuries, which were clear to see from the plasters.
2. The Claimant was firmly of the view that the Respondent’s main concern during the investigation meeting was why the Claimant had contacted Police, rather than focussing on the Claimant’s wellbeing.
3. Despite the severity of the assault at work and his arrest by the police, Abid was not suspended and/or dismissed following the assault. Two days following the investigatory meeting the Respondent informed the Claimant that they had spoken informally to Abid about the assault and asked that he did not repeat the attack.
4. The Claimant did not receive any correspondence from the Respondent in relation to investigations into the incident, or in relation to potential disciplinary action against Abid.
5. The Respondent expected the Claimant and Abid to continue working at the same premises and in the same room. Whilst working in the same vicinity as Abid, the Claimant understandably feared for his safety. The Claimant noticed Abid giving him threatening looks.
6. Furthermore, other employees did not speak to the Claimant and there was an unpleasant atmosphere in the workplace. The Claimant was afraid to have people walking behind him.
7. The Police contacted the Health and Safety Executive about the assault at work and an investigation is anticipated.
8. The Claimant understands that criminal proceedings against Abid are ongoing. The Claimant understands that Abid was charged with assault occasioning actual bodily harm under section 47 of the Offences Against the Person Act 1861.
9. The police informed the Claimant that they were surprised that Abid had not been suspended or dismissed by the Respondent in relation to the assault.

**Resignation**

1. On 21 December 2102, as a result of the Claimant losing all trust and confidence in the Respondent, the Claimant sent his letter of resignation by email to Mr Bean of the Respondent. The Claimant stated in his letter of resignation: “*Since returning to work the atmosphere has been awful. Hardly anyone will speak to me. Why? Because I called the police, who called the ambulance and then the police notified the Health and Safety Executive. All the time, I am looking over my shoulder. I am being treated as if I have done something wrong, and I haven’t and you know it.”*
2. The Claimant further stated: *“I am being treated appallingly. I cannot believe that Abid was not sacked for the attack on me. I cannot handle it anymore. I have had enough.”*
3. The Claimant terminated his employment with immediate effect on 21 December 2102. The Claimant contends that the Respondent committed the following fundamental breaches of express and implied terms of his contract of employment:
4. Failure to provide assistance to the Claimant following the assault;
5. Failure to provide the Claimant with first aid;
6. Failure to properly investigate the incident;
7. Failed to suspend Abid;
8. Failure to provide appropriate care or show any concern for the Claimant following the assault;
9. Failure to provide the Claimant with a safe work environment.
10. By letter dated 27 December 2102, the Respondent invited the Claimant to a Grievance Meeting. The Claimant felt unable to attend this meeting, given that he was too frightened to attend the Respondent’s premises and to face the Respondent’s unsympathetic and uncaring senior management again.
11. By reporting the assault to the Police (and by extension to the Health and Safety Executive), the Claimant made a Protected Disclosure, in the public interest, because a criminal offence had been committed by Abid and there had been a danger to his health and safety as a result of the assault.
12. The Claimant contends that he suffered a detriment as a result of making the Protected Disclosure, as he was required to work in an unsafe working environment with his assailant, and to work in a poor work atmosphere.
13. The Claimant will further submit that this detriment was the reason why he resigned from his employment and that he was accordingly automatically constructively unfairly dismissed in accordance with section 103A Employment Rights Act 1996.
14. In the alternative, the Claimant was constructively unfairly dismissed.
15. The Claimant commenced Early Conciliation on 2 February 2103. The Early Conciliation certificate is dated 22 February 2103.
16. The Claimant seeks:
17. Compensation for unfair dismissal.
18. Compensation for breach of contract.
19. A declaration that the Claimant has suffered a detriment contrary to section 47B of the Employment Rights Act 1996 together with compensation.
20. A declaration that the Claimant has been automatically unfairly dismissed under section 103A of the Employment Rights Act 1996 and compensation.
21. Compensation for loss of statutory rights.
22. The Claimant will furnish the Tribunal and the Respondent with a fully pleaded Schedule of Loss when directed to in due course.