



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs S Doel  
**Respondent:** Believe Engage Succeed Trust  
**Before:** Employment Judge M Warren  
**At:** Bury St Edmunds Employment Tribunal

## JUDGMENT

The Claimant's claims are struck out

## REASONS

1. On 21 November 2019 the Respondent's solicitors wrote to the tribunal, copied to the claimant, to say that the claimant was in breach of the case management orders requiring copy documents to be disclosed within 7 days of request, it had not been possible to prepare the bundle, nor prepare and exchange witness statements. The Respondent applied for the claims to be struck out. The Claimant was invited to object as soon as possible. No objection was received.
2. By email dated 4 January 2020 on my instructions, the Claimant was asked by the tribunal to respond to that application in writing by 13 January 2020. No response was received.
3. By letter from the tribunal dated 9 February 2020 written on the instructions of EJ Postle, the Claimant was warned that the tribunal was considering striking out the claim as she had not complied with the tribunal's orders and the case was not being actively pursued. She was required to respond with any objection by 17 February 2020.
4. By email dated 11 February 2020, (referred to me today) the Claimant wrote:

*"I apologise for the delay in responding, but I was in hospital from 04/02 until 07/02. I have been unable to obtain witness statements as the people that I have contacted that are still employed by the trust have unwilling to speak out against the defendant through fear of retribution. Those who no longer are employed do not wish to get involved and drag up the past.*

*Therefore I have not submitted anything further as I have nothing to submit"*

5. This matter is listed for a four day hearing on 24 February and there is no bundle and are no witness statements, due to the Claimant failing to comply with case management orders and failing to reply to correspondence, with no apparent good reason, (her recent stay in hospital does not explain her earlier inaction).
6. If I do not strike out the claim, the prejudice to the Respondent will be that it is put to the expense of representation at a hearing next week which will not be able to go ahead in the absence of proper preparation. A fair hearing will not be possible. An adjournment would involve the case being relisted for January or February 2021, a year away and more than 2 years after the events in question, by which time memories will have faded.
7. By striking out the claim, the prejudice to the Claimant is of course that she loses the opportunity to argue her case that she was unemployed, but that prejudice is ameliorated by the fact that the Claimant had an opportunity to do so, but had not co-operated in its preparation for hearing, has ignored case management orders and has ignored correspondence.
8. I consider striking out the claim to be in accordance with the overriding objective:
  - 8.1. Whilst the parties are not on an equal footing, lacking representation is no excuse for ignoring correspondence and case management orders, having the effect of rendering a hearing impossible;
  - 8.2. Striking out in these circumstances is proportionate
  - 8.3. Excess formality has been avoided by inviting the Claimant to address her default in 3 letters and her only letter of reply does not do so.
  - 8.4. Not striking out would have involved lengthy and excessive delay, impacting on the cogency of evidence and would have caused further expense.

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Employment Judge M Warren

Date: 21 February 20

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE

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