



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms I Rudzate

**Respondent:** SB Security Solutions Limited

**Heard at:** London South Employment Tribunal (by CVP)  
**On:** 10 November 2021

**Before:** Employment Judge Abbott (sitting alone)

## Representation

Claimant: in person

Respondent: Mr Daniel Brown, barrister, instructed by Ashfords LLP

# RESERVED JUDGMENT

All remaining parts of the complaint not already struck out by the Judgment of Employment Judge Hyde dated 7 January 2020 are hereby struck out under Rule 37.

# REASONS

*References to “[xx]” are to page numbers in the Bundle for the Preliminary Hearing.*

## Introduction

1. The Claimant was employed by the Respondent as a Security Operative from 9 April 2018 until her resignation on 15 February 2019.
2. The Claimant brought a wide-ranging complaint on 7 March 2019, with the events relied upon set out in the two-page details attached to her ET1 claim form [20-21]. As summarised by EJ Hyde in her Case Management Summary of 7 January 2020 [103-112]:
  - (1) paragraphs 1, 2 and 4 brought complaints of sex and race discrimination under the Equality Act 2010;
  - (2) paragraph 3 brought complaints of breach of contract and constructive dismissal;

- (3) paragraph 5 made allegations of harassment and/or direct discrimination, but the basis of these allegations was unclear; and
- (4) paragraph 6 made allegations of whistleblowing and victimisation, but again the basis of these allegations was unclear.

### Procedural history

3. As will become clear later in these Reasons, it is important to set out the procedural history in some detail.
4. From an early stage, the Respondent has sought further particulars of the Claimant's case. A first request was made in an email of 10 June 2019 [46].
5. Rather than engaging with the request for further particulars, the Claimant instead emailed the Tribunal and the Respondent on 22 June 2019 (the attached document bearing the date 19 June 2019 [48-50]) alleging "*serious breaches and failures*" from the Respondent's solicitors, specifically that they had failed to file the response to the claim in time, and sought judgment in default. (In fact, the Claimant was incorrect in this respect, as the Respondent had filed its ET3 and Grounds of Resistance, in time, on 22 May 2019 [45]. The Respondent's solicitors confirmed this to the Claimant on 23 June 2019 [51] but the Claimant nevertheless maintained her application [52].) The response was accepted by the Tribunal on 28 June 2019 [54].
6. The Claimant subsequently provided a "Statement" on 30 June 2019, which comprises a mix of legal submission, evidence and requests for disclosure [55-64]. She followed this up with a further application on 8 August 2019 [65-67] for an order for disclosure of a particular email, to strike-out the response if disclosure was not provided, and "sanctions" for the Respondent's failure to disclose the email earlier. The Claimant also sought postponement of the telephone case management hearing that was listed for 19 September 2019 due to a "scheduled medical appointment abroad". The Respondent resisted the disclosure application as premature [68]. The Claimant's application for postponement was refused by EJ Wright [69].
7. On the morning of the telephone case management hearing the Claimant wrote to the Tribunal and the Respondent stating she would not participate [70-72], citing the Respondent's failure to provide the requested disclosure, alleging breaches of "Article 6 of The Human Rights Act 1998", again requesting strike-out of the response for failure to provide disclosure and "sanctions". No mention was made in this correspondence of the previously-mentioned medical appointment. The Claimant also raised allegations that the Respondent had made defamatory statements in their submissions to the Tribunal and sought a written apology and £750,000 in compensation.
8. The telephone case management hearing proceeded in the Claimant's absence before EJ Hyams-Parish. He listed an open preliminary hearing

to determine the jurisdiction issues raised in the Response. Otherwise, the only substantive order made was that in paragraph 8 of the Order dated 19 September 2019 and sent to the parties on 21 September 2019, which required the Claimant by 17 October 2019 to provide the information requested by the Respondent in its email of 10 June 2019 [73-74]. The Order contained the standard warning regarding consequences of non-compliance, including the possibility of strike-out.

9. It is apparent that the Claimant was aware that this Order had been made, as she provided a response on 16 October 2019 [75-76]. Again, the response was combined with requests that the response be struck-out for failure to provide the requested disclosure (notwithstanding that no order had yet been made in respect of disclosure), struck-out for failure to comply with the Claimant's requests regarding defamation (notwithstanding that defamation forms no part of the Claimant's claim in this case) and "sanctions". Yet further requests for disclosure and strike out were made by the Claimant on 28 October 2019 [77-78].
10. By an email dated 4 November 2019, the Respondent applied for an Order that the Claimant comply with paragraph 8 of the Order dated 19 September 2019, on the basis that the response provided on 16 October 2019 was inadequate [79-80]. The Respondent resisted all of the Claimant's applications and, notwithstanding the lack of any disclosure orders, provided the Claimant with the email that she had sought disclosure of [81-82].
11. In response [83], the Claimant resent to the Tribunal and the Respondent three documents previously provided (those dated 8 March 2019 (the attachment to the ET1), 30 June 2019 and 16 October 2019) and two further documents (one again raising allegations of defamation [85], and one making allegations regarding the email that the Respondent had provided by way of disclosure and yet again seeking strike-out of the response and "sanctions" [86-88]).
12. At 18:36 on 9 December 2019, the evening before the listed open preliminary hearing, the Claimant emailed the Tribunal and the Respondent to say she would not be able to attend the hearing due to "serious illness" and that she was abroad and unable to board a plane [89].
13. The hearing proceeded on 10 December 2019 in the Claimant's absence. At that hearing, EJ Hyde struck out the complaints in relation to the events set out in paragraphs 1, 2 and 4 on the ground that the Tribunal had no jurisdiction to hear them having regard to section 123 of the Equality Act 2010 [97].
14. Regarding the complaints set out in paragraphs 5 and 6, EJ Hyde issued a strike-out warning, on the basis that the allegations:
  - have no reasonable prospect of success;

- the manner in which the proceedings have been conducted by the claimant has been unreasonable; and/or
- the claimant had not complied with paragraph 8 of the Order of the Tribunal dated 19 September 2019 and sent to the parties on 21 September 2019 [102].

The Claimant was required to object to the strike-out proposal by 27 January 2020.

15. In addition, EJ Hyde ordered the Claimant to provide further information in relation to the paragraph 5 and 6 allegations by 27 January 2020 (paragraph 1.i of her Order) [100]. The further information required is set out clearly in paragraphs 47 and 49 of EJ Hyde's Case Management Summary [109-110] which I quote in full below:

*47. It will be for the Claimant to specify in relation to the Equality Act victimisation claim in detail what the protected act is that she is relying on – a clearer description of 'bringing matters to the attention of' Mr Bettsworth. Thus, she needs to say whether this was by way of oral or written communication. If oral, she needs to specify the time and date(s)/context/circumstances, and the gist of what was said, and whether there were any witnesses present, and if so, who they were. If she sent an email or other written communication, she needs to identify the time and/or date on which it was sent, who it was sent to and also the text within that document which she says amounted to a protected act under the Equality Act. Then she needs to state which of the unfavourable treatments she is complaining about in paragraph 6 she is alleging was caused by having done the protected act.*

*49. The Claimant must state precisely what the disclosure of information was and address how the facts of her case meet the requirements of section 43B of the 1996 Act. She must identify the document or the conversation in which the disclosure of information was made, the gist of what was said, the context, and identify the time and date of the communication and any witnesses present. Then in relation to each disclosure, she is required to identify the specific unfavourable treatment which she says that disclosure caused. She cannot just take a global approach to it, as the Employment Appeal Tribunal has emphasised.*

16. According to the Tribunal's records, EJ Hyde's Judgment and Order were sent to the parties via email on 8 January 2020 [99].
17. In the meantime, on 22 December 2019, the Claimant made further applications [90-94], seeking an order that Mr James Saville (author of the email disclosed by the Respondent) be present at the next preliminary hearing in order to be cross-examined, and again seeking strike-out of the response, "sanctions" and an award of compensation of £68,093.70 for constructive dismissal and £750,000 for defamation of character.
18. On 10 February 2020, the Respondent emailed the Tribunal, copying the Claimant, noting that no objections had been made in response to the strike-out warning nor had the Claimant provided the further information that she had been ordered to provide. Strike-out of the entire claim was sought [116-117]. The Claimant responded the same day, indicating that she had not received EJ Hyde's Order [115-116]. The Respondent forwarded the Order to the Claimant the following day [114-115].

19. Rather than engaging with the Order sent to her by the Respondent, the Claimant instead, by repeated emails to the Tribunal on 10 and 15 February, 2, 12 and 23 March 2020 [113-116] demanded an explanation for why she had not been sent EJ Hyde's Order. Ultimately, following a referral of the file to EJ Andrews, on 7 April 2020 the Tribunal re-sent to the Claimant the materials that had been sent out on 8 January 2020 [119]. The Claimant acknowledged receipt of this email the same day [121].
20. By repeated emails dated 11, 14, 15, 16 and 17 April 2020, the Claimant alleged that her right to a fair trial had not been met because her request for postponement of the 10 December 2019 hearing had not been granted, and sought another hearing date [123-127]. The request was refused by EJ Balogun for reasons given in a letter dated 18 May 2020 [128]. The letter noted that "*if you have any issues with the orders made, you can apply for them to be varied*". At no stage has the Claimant made such an application.
21. The Claimant wrote again to the Tribunal on 22 May 2020 seeking to appeal EJ Balogun's decision [129-130], and a direction was issued by EJ Martin on 10 June 2020 that the Claimant would need to appeal directly to the Employment Appeal Tribunal [134]. The Claimant did not subsequently do so. Instead she renewed her repeated requests to the Tribunal for another hearing date, sending emails to that effect on 3 and 20 July 2020 [135-136; 138-139].
22. In the meantime, on 3 June 2020, the Respondent applied for strike-out of the claim on the following grounds:
  - a. the claim has no reasonable prospects of success (rule 37(1)(a));
  - b. the manner in which the proceedings have been conducted by the Claimant have been unreasonable and vexatious (rule 37(1)(b));
  - c. the Claimant has failed to comply with several orders of the Tribunal (rule 37(1)(c)); and
  - d. the claim has not been actively pursued (rule 37(1)(d)).
23. The Respondent's letter [131-133] detailed why, in its view, strike-out was appropriate. In particular, it pointed to the Claimant's ongoing failure to provide the further information ordered by EJ Hyde, the unreasonable and vexatious manner of her pursuit of the claim (involving multiple emails to the Tribunal but a lack of engagement with the Tribunal's orders), and that by failing to provide the information actually required to proceed with the claims, the Claimant is effectively failing to actively pursue the claims.
24. EJ Martin ordered that the Respondent's strike-out application be listed for an open preliminary hearing, as notified to the parties in a letter dated 29 July 2020 [140]. (The Claimant subsequently sought to appeal EJ Martin's order, though this was unsuccessful with Mrs Justice Stacey, sitting in the Employment Appeal Tribunal, ordering that no further action be taken.)
25. The open preliminary hearing was subsequently listed for 20 November 2020. In advance, the Respondent provided a bundle and a skeleton

argument in support of its application [163-168]. The Claimant provided a "Statement" [176-180]. The Claimant's Statement was primarily concerned with further complaints about alleged procedural irregularities in the earlier orders of the Tribunal and did not engage with the points made in the Respondent's application. The Statement included a submission that "the previous Judge's actions have disgraced and damaged the integrity and the impartiality of the Tribunal" and a suggestion that "the Respondent has been fornicating with the Tribunal behind the Claimant's back" [180].

26. The open preliminary hearing took place before EJ Truscott QC on 20 November 2020 by a video hearing. The note of hearing records that the Claimant had an unsteady internet connection [184]. The Claimant insisted that she was unaware of what EJ Hyde had decided, and EJ Truscott QC decided that he would not determine the Respondent's strike-out application at that stage, but instead directed that the Tribunal again re-send EJ Hyde's orders to the Claimant [185]. It is also important to note paragraph 9 of the note of hearing and the orders made by EJ Truscott QC, which I quote in full below:

9. The Tribunal emphasised that the claimant had to actively participate in the progress of her claim. At the very least, if urgent preparations were not made by her for the hearing, the dates in May might have to be postponed to a much later date. The Tribunal emphasised the importance of making the preparations set out in EJ Hyde's Orders. The time for compliance has passed and the Tribunal indicated that she should apply for a variation of the dates in EJ Hyde's Orders. She should also start preparing for the hearing as of now. The respondent may, if so advised, renew its application for strike out.

#### ORDER

1. By 4 December 2020, the claimant must intimate to the Tribunal with a copy to the respondent what progress she has made in complying with the Orders made by EJ Hyde on 10 December 2019.
  2. By December 2020, the claimant must apply to vary the dates for compliance in EJ Hyde's Orders of 10 December 2019.
27. The reference in the above to "the dates in May" is to the dates of the final hearing, which was at that stage listed for 17-20 May 2021.
28. EJ Hyde's Judgment and Order was re-sent to the Claimant by the Tribunal on 24 November 2020 [187].
29. On 4 December 2020 [192] the Claimant sent four documents to the Tribunal, only two of which were newly submitted.
- (1) The first (dated on its face 1 December 2020) purports to be an application to vary the dates for compliance with EJ Hyde's Orders of 10 December 2019, but in fact comprises a repetition of complaints regarding procedural irregularities and alleged failings of the Tribunal and the Respondent.



(2) The second (dated on its face 3 December 2020) purports to be a response to EJ Hyde's Orders. In respect of paragraph 1.i (the further information ordered by EJ Hyde), the Claimant writes:

1) Point i – The Claimant would like to receive clarification regarding this point from Employment Judge C Hyde. In the end of the Judgement, there is a paragraph with Conclusions and several points in italic text indicate the points 5 & 6. The Claimant understands she asks the Judge to repeat himself but since she was absent from the Preliminary Hearing, she is unaware the date and the document the points 5 & 6 is the Judge referring to. Or is it from the Claimant's or the Respondent's bundle/statement?

30. Having received and considered these documents, the Respondent renewed its application to strike-out by a letter of 14 December 2020, on the same grounds as in the previous application [206-212]. In particular, the Respondent noted that, in its view, the Claimant had failed to properly comply with the Orders of EJ Truscott QC, and had still not provided the further information ordered by EJ Hyde.
31. The Claimant responded to the application on 17 December 2020 [214-216]. The following aspects of the response are, in my judgement, notable:
- (1) The Claimant maintained the argument presented to EJ Truscott QC on 20 November 2020 that she had not received EJ Hyde's Judgment prior to that hearing;
  - (2) The Claimant advanced multiple allegations regarding false statements made by the Respondent;
  - (3) In respect of paragraph 1.i. of EJ Hyde's Order, the Claimant advanced the position that she had already provided the information sought;
  - (4) Additionally, the Claimant indicated that she "*will not tolerate a one-way communication. If Tribunal will fail to actively participate and communicate with the Claimant, the case will suffer even further.*" This statement related to the request for clarification of EJ Hyde's Order made in the document submitted on 4 December 2020.
  - (5) The Claimant alleged that "*the [Tribunal] staff and the Judges have never treated her fairly, but with prejudice and discrimination*" and requested that "*[EJ Truscott QC] re-allocate the case to a different tribunal*".
32. The Claimant made further submissions on 26 April 2021 (this time directed to the Employment Appeal Tribunal) [226-229].
33. In view of the pending application to strike-out, REJ Freer ordered that the final hearing listed for 17-20 May 2021 be vacated, and the case relisted for an open preliminary hearing to deal with the strike-out application [239]. Today was that hearing.

The hearing

34. The hearing was listed as a video hearing using the CVP platform. The Respondent was represented by Mr D Brown, counsel, accompanied by Mr S Bettsworth, Director of the Respondent. The Claimant appeared in person. The Claimant did not have a working camera (it appeared that a camera was connected, but it was not showing the Claimant), so I instructed that we proceed with cameras off. I considered this approach to be in the interests of justice, to avoid any suggestion that the Respondent was somehow advantaged by seeing and being seen by me.
35. I established with the parties at the beginning of the hearing that the hearing was concerned with the Respondent's application to strike-out the whole claim. The Claimant raised a number of points at the outset, including that she believed that the parts of the claim that EJ Hyde had struck-out had been reinstated, and made several allegations that the Respondent had been going behind her back negotiating with the Tribunal. I explained that I would ask Mr Brown to explain the Respondent's application and that the Claimant would then have an opportunity to make the points she wanted to make in answer to that.
36. Mr Brown then opened the application, referring me in particular to his skeleton argument prepared for the hearing before EJ Truscott QC [163], and took me through the history of the case in some detail. In essence, his position was that the case was no further forward than it had been a year ago. The Claimant had still not provided the information that she had been ordered to provide, and had shown contempt, disrespect and wilful disregard for Orders of the Tribunal. Moreover, her conduct of the case had been unreasonable. Given the time that had elapsed, strike-out was justified and proportionate – the Claimant had had multiple warnings of the risk of strike-out, EJ Truscott QC had given her a final chance, and still she had failed to comply, resulting in the loss of a 4-day final hearing listing. The delay prejudiced the Respondent because one of its key witnesses, Mr McGiffen, was no longer employed by the Respondent and has significant health problems so was unlikely now to be able to testify, and more generally the passage of time was likely to have a detrimental effect on the memory of witnesses. Rather than engage and progress the case, the Claimant preferred to criticise the Respondent and the Tribunal.
37. I then invited the Claimant to respond. She opened her response by submitting that she had not received the EJ Hyde Order until it was forwarded to her after the hearing before EJ Truscott QC, and that she had then promptly responded to the orders to provide further information. After taking her to the specific orders made by EJ Hyde, I asked her to show me the document(s) in which she provided her responses to those orders. She referred me to the document that was attached to the ET1 claim form in 2019, to an updated version of that document that she had submitted to the Tribunal the day before the hearing (ET\_10.11.2021.docx), and to the documents submitted on 4 December 2020 after the EJ Truscott QC hearing.



38. I have already quoted from the 4 December 2020 submission above in which the Claimant, rather than providing the information that EJ Hyde ordered her to provide, asks for clarification from EJ Hyde. When I asked the Claimant about that, her response was to say that she did not believe that further information is required. I should say that, in my judgement, EJ Hyde's Order is very clear as to what is required and that no further clarification is reasonably required. None of the other documents referred to by the Claimant provide the information that EJ Hyde ordered her to provide.
39. The Claimant then returned to her previous theme that she had not received the EJ Hyde Order at the time. As Mr Brown had taken me to several emails in which it appeared that the Claimant had received the EJ Hyde Order, I asked the Claimant to comment on those. The Claimant:
- (1) Denied receiving the Tribunal's email of 8 January 2020 (which was, on its face, sent to her email address);
  - (2) Accepted receiving an email from the Respondent's solicitors attaching the order on 11 February 2020, but stated that she could not trust anything that was sent to her by the Respondent, and would only regard anything coming from the Tribunal as a true copy;
  - (3) Initially sought to submit that she had not received the Tribunal's email of 7 April 2020 [119], until I pointed out to her that she had responded to that email the same day [121]. She had no real answer to that, save to say that the email no longer appeared in her records.
40. At this point, the Claimant's behaviour shifted. She complained that I was not providing her the opportunity to speak. I sought to try to move the hearing on to try to better understand the Claimant's position on what she said she had done to comply with EJ Hyde's Order after it was sent to her following the EJ Truscott QC hearing. The Claimant continued to be agitated and then abruptly disconnected from the hearing at 11:52. It was clear to me, and I find, that this was a deliberate act to disconnect on the part of the Claimant.
41. I told Mr Brown that I would also disconnect and would ask the Tribunal clerk to try to get the Claimant back so that we could complete the hearing. After a short delay, the Tribunal clerk managed to get through to the Claimant, who claimed that she had been disconnected from the CVP room (rather than disconnecting herself), that she was now in the bathroom and would rejoin when she was ready.
42. I resumed the hearing at 12:13 – the Claimant was connected and apparently able to hear but the other participants could not hear her. I again asked the Tribunal clerk to call the Claimant – she did so, and the Claimant explained she was having connection difficulties. The Tribunal clerk enlisted the help of the Tribunal Digital Support Officer, and a connection was eventually re-established.

43. I asked the Claimant to continue with her submissions in answer to the Respondent's application. Rather than doing so, she instead asked for an explanation of why she was being sent an Order in April 2020 in which the deadlines in the Order had already expired, and stated that she had other questions that she wanted me and the Respondent to answer. I explained that I was hearing the Respondent's application and wanted to hear her response to that, and that if she had other applications she wanted to make, she could do so in the usual way.
44. At this point, the Claimant disconnected again. With the assistance of the Digital Support Officer, after multiple attempts, we managed to get her reconnected by telephone. I invited her to continue her submissions. She stated that she had a number of questions that she wanted to ask before she would say anything else. She demanded to know why the ET3 had been accepted when it had been filed after the deadline (I have already explained above that the Claimant is wrong about this and the ET3 was filed in time), why Mr McGiffen would not be able to testify at a final hearing, and why her multiple demands to cross-examine Mr Saville had not been addressed. She stated that she wanted answers before she would proceed, and then disconnected from the hearing.
45. In the circumstances, I indicated to Mr Brown that I was inclined to make a decision based on the submissions I had heard, in view of the fact that the Claimant clearly voluntarily disconnected herself from the hearing (at least on the final occasion and, I find, also earlier in the hearing I infer in an attempt to derail it). Mr Brown made a brief submission to the effect that the Claimant had behaved unreasonably through the hearing, and that she had had the opportunity to answer the application but instead sought to raise other complaints. I accept that submission. The Claimant's behaviour in the hearing was wholly unreasonable: it was clear that she was not prepared to engage unless it was on her own terms, and when she was not getting her own way, she sought to derail the hearing instead.
46. I indicated to Mr Brown that I would issue a judgment in writing. This is that judgment.

### The law

47. Rule 37(1) of the Employment Tribunals Rules of Procedure provides that the Tribunal may strike out all or part of a claim on any of the following grounds-
  - (a) that it is scandalous or vexatious or has no reasonable prospect of success;
  - (b) that the manner in which the proceedings have been conducted by or on behalf of [the claimant] has been scandalous, unreasonable or vexatious;
  - (c) for non-compliance with any of these Rules or with an order of the Tribunal;
  - (d) that it has not been actively pursued;

- (e) that the Tribunal considers that it is no longer possible to have a fair hearing in respect of [the claim].
48. The power may only be exercised if the claimant has been given a reasonable opportunity to make representations, either in writing or, if requested by the claimant, at a hearing (Rule 37(2)).
49. The Respondent advanced its application on the basis of each of points (a) to (d) above.
50. Rule 37(1)(b) requires the Tribunal to consider whether the proceedings have been conducted “in a way which amounts to an abuse of the tribunal’s process” (*Bennett v Southwark LBC* [2002] ICR 881 (CA), para 26). If that threshold is met, the Tribunal must consider whether it is proportionate to strike out the claim.
51. As regards Rule 37(1)(c), where a Claimant has demonstrated a deliberate and persistent disregard of the required procedural steps in a claim, the claim may be struck out provided that is proportionate in all the circumstances (*Blockbuster Entertainment Ltd v James* [2006] IRLR 630 (CA), para 5). The Tribunal is entitled “to impose a sanction where there has been wilful disobedience to an order” and the “guiding consideration is the overriding objective” (*Weir Valves & Controls (UK) Ltd v Armitage* [2004] ICR 371, paras 16-17).
52. Regarding Rule 37(1)(d), “intentional and contumelious’ default by the claimant” may amount to a failure to actively pursue a claim (*Rolls-Royce plc v Riddle* [2008] IRLR 873 (EAT)).

#### Application

53. There is no doubt, and I find, that the Claimant has had a reasonable opportunity to make representations as to why the claim should not be struck-out, both in writing and at a hearing, as required under Rule 37(2). EJ Hyde made strike-out warnings in her Order that the Claimant was aware of from, at the latest, 7 April 2020. The Respondent has, on several occasions, set out the basis on which it sought to have the claim struck-out. This is the second hearing at which strike-out has been on the agenda.
54. I will therefore go on to consider first whether any of the different limbs of Rule 37(1) are satisfied and, if so, the question of whether it is proportionate and in accordance with the overriding objective to strike out the claim.
55. Considering first the Rule 37(1)(c) limb, I find that the Claimant has failed to comply with paragraph 1.i. of the EJ Hyde Order. None of the documents that the Claimant pointed to as providing further information (the document that was attached to the ET1 claim form in 2019, the updated version of that document that she had submitted to the Tribunal the day before the hearing (ET\_10.11.2021.docx), and the documents submitted on 4 December 2020 after the EJ Truscott QC hearing) come close to providing the further information ordered to be provided. Indeed,

the most recent document does nothing more than seek clarification of EJ Hyde's Order, a clarification that I find is not reasonably necessary. The terms of EJ Hyde's Order are clear.

56. The Claimant's arguments concerning when she actually received EJ Hyde's Order are irrelevant. It is accepted by the Claimant that she received the Order on 24 November 2020, following the hearing before EJ Truscott QC, and I have found that she still has not complied with paragraph 1.i. nearly 1 year on from that date. In fact, I find that the Claimant received EJ Hyde's Order from the Tribunal even earlier than that, on 7 April 2020, in view of the clear evidence that she replied to the email of the Tribunal sending the Order that same day, so the period of non-compliance is even longer.
57. I also find that the default identified above is "intentional and contumelious" such that it falls within the first category of cases of failure to actively pursue a claim (Rule 37(1)(d)) identified by Lady Black in *Rolls-Royce v Riddle*. The Claimant has been aware of the order to provide further information since, at the latest, 7 April 2020 but has failed to do so. She was provided a last chance to comply by EJ Truscott QC in November 2020 and, rather than doing so, she provided a response saying that EJ Hyde's order was not clear. Before me, she submitted that she didn't consider that further information was required. In my judgement, the Claimant has shown contempt for the Order of the Tribunal and her intention throughout has been to ignore her own obligations and instead seek to criticise the conduct of Respondent and of the Tribunal.
58. I also find that the Claimant's conduct of this case has been unreasonable and vexatious and an abuse of the Tribunal's process (Rule 37(1)(b)). I have set out in considerable detail above the procedural history which, I find, shows a continuum of unreasonable behaviour. I draw out the following points by way of illustration:
  - (1) The prolonged failure to comply with an order to provide further information necessary to progress the case (as found above);
  - (2) Repeated applications to strike-out the Response or for the Tribunal to impose "sanctions" on the Respondent, such applications having no reasonable basis;
  - (3) Repeated baseless accusations made against the Respondent and its solicitors alleging, among other things, defamation / false statements, inappropriately contacting the Tribunal behind the Claimant's back and not providing bundles;
  - (4) Repeated emails to the Tribunal demanding explanations for why documents had not been sent to her and allegations (without substance) that the Tribunal has favoured the Respondent by sending correspondence only to it;
  - (5) Allegations (without substance) that a Judge of the Tribunal has acted in a manner that has disgraced and damaged the integrity and the impartiality of the Tribunal;

- (6) The Claimant's unreasonable behaviour in the hearing before me.
59. In view of my conclusions above, it is not necessary for me to consider the Rule 37(1)(a) limb.
60. As I am satisfied that the Rule 37(1)(b), (c) and (d) limbs are each met, I must now consider whether it is proportionate and in accordance with the overriding objective to strike-out the claim.
61. The claim was presented in March 2019 and the response filed (in time) in May 2019. We are no nearer a final hearing than we were then (save for the parts of the claim that have already been struck out by EJ Hyde). This is entirely the fault of the Claimant for failing to provide further information as to her case. A 4-day final hearing listing has already been lost. The Claimant had a final chance granted by EJ Truscott QC but has still failed to properly engage with the Tribunal process. There is no reason to think that, if I were to give her another chance, she would now do so, or that she would cease her unreasonable campaign of unwarranted criticism of the Respondent and its solicitors and of the Tribunal. Given her behaviour in the hearing before me, all the indications are that the opposite would be the case.
62. Moreover, the Claimant's conduct and continued failings have caused the Respondent to incur legal expenses (including the costs of attending hearings before 4 different Judges: EJ Hyams-Parish, EJ Hyde, EJ Truscott QC and myself) with no discernible progress having been made with the case. I accept Mr Brown's submission that there is prejudice to the Respondent should the claim be permitted to go to a final hearing, in view of the passage of time since the events in question.
63. In my judgement, the sanction of strike-out of the claim is appropriate and consistent with the overriding objective in the circumstances of this case. I therefore strike out all parts of the claim not already struck out by the Judgment of Employment Judge Hyde dated 7 January 2020.

**Employment Judge Abbott**

**Date: 25 November 2021**

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