



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 8000006/2023

Per written submissions

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Employment Judge M A Macleod

Ms E Crammond

**Claimant
In Person**

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Babington

**Respondent
Represented by
Ms L Carr –
Senior People Partner**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Employment Tribunal is that the claimant's claim is struck out on the grounds of non-compliance with an Order of the Tribunal under Rule 37(1)(c) of the Employment Tribunals Rules of Procedure 2013.

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REASONS

1. The claimant presented a claim to the Employment Tribunal on 4 January 2023 in which she complained that the respondent had dismissed her unfairly, discriminated against her on the grounds of disability, and unlawfully deprived her of wages.
2. The respondent submitted an ET3 in which they resisted all claims made by the claimant.
3. A Preliminary Hearing took place on 1 March 2023 before Employment Judge McManus for the purpose of case management. In her Note following that Preliminary Hearing, Employment Judge McManus issued a Note and Order, in which it was confirmed that the claimant withdrew her unfair

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dismissal claim, and the claimant was required to provide certain information to the Tribunal and to the respondent.

4. The claimant provided certain information to the Tribunal and to the respondent, but the respondent now disputes that the claimant has satisfied the terms of the Tribunal's Order, and seeks strike out of the claimant's claim as a result.
5. A Preliminary Hearing was listed to take place on 11 May 2023 by CVP before me. However, a difficulty arose at that Hearing, and accordingly the following communication was sent to the parties on my instruction:

"Dear Parties

The Preliminary Hearing listed to take place on 11 May 2023 was adjourned by Employment Judge Macleod at its outset, on the basis that the claimant expressed concern that continuing with the Hearing, even by CVP, in the presence of the respondent's representative Ms Carr, would be detrimental to her mental health. She made application, following discussion with the Employment Judge, to the effect that the first issue for determination in this Hearing should be dealt with by written submissions. The Employment Judge, without accepting the claimant's assertions, invited the respondent's comments, and Ms Carr confirmed that she had no objection to this course of action. Accordingly, Employment Judge Macleod directed as follows:

1. That the Hearing listed to take place today (11 May 2023) should be adjourned;

2. That the first issue for determination at this Hearing – namely, whether the claimant's claim of disability discrimination should be struck out on the basis of her non-compliance with the Tribunal's Orders - should be determined by way of written submissions by the parties, as follows.

3. The claimant shall supplement her correspondence on this matter with any further written submissions which she wishes to make, by sending to the Tribunal and to the respondent such further submissions on this issue by no later than 5pm on Tuesday 16 May 2023.

4. *The respondent shall supplement their correspondence on this matter with any further written submissions which they wish to make, by sending to the Tribunal and to the claimant such further submissions on this issue by no later than 5pm on Friday 19 May 2023.*

5 5. *The Employment Judge shall then issue a written decision as soon as possible thereafter, together with such further directions as are required or deemed to be appropriate in the proceedings. The Tribunal may require, at that stage, to reconvene the Preliminary Hearing, but will give clear notice of doing so if required.”*

10 6. This Judgment addresses that preliminary point on the basis of the correspondence submitted by the parties both before and after that Preliminary Hearing.

15 7. I address the terms of the Order, the claimant’s purported compliance and the correspondence surrounding that, the relevant law and then I set out my decision.

The Order

8. The terms of the Order were as follows:

1. *Withdrawal of Unfair Dismissal Claim* *The claimant’s claim of unfair dismissal is withdrawn and dismissed, with Judgment issued separately.*

20 2. *Impact Statement*

By 15 March 2023, the claimant to provide an impact statement detailing the impact on her day to day activities of her condition of fibromyalgia. That impact statement should include:-

- *The impairments arising as a result of her fibromyalgia*
- 25 • *How her condition affects her in her day to day activities*
- *How long she has suffered from those effects*
- *How long she is likely to suffer from those effects*

- *What medication (if any) she is prescribed in respect of the condition.*
- *Any other treatment (including counselling), including whether any treatment is ongoing and the reason(s) why any treatment ceased.*

3. Further Particulars

5 *By 15 March 2023, the claimant to respond to the following questions:-*

Disability Discrimination

(1) What treatment of her by the respondent does the claimant say was less favourable treatment of her because of her disability?

(2) When did that treatment occur?

10 *(3) Who within the respondent's business does the claimant say was responsible for that treatment?*

(4) What does the claimant say were the consequences of the alleged less favourable treatment?

15 *(5) If the claimant relies on a comparator in respect of less favourable treatment under section 13 of the Equality Act 2023, who is that comparator?*

(6) If the claimant seeks to rely on any other section of the Equality Act 2010 in respect of her treatment by the respondent, what section(s) does the claimant seek to rely on, and on what basis?

20 Unpaid Wages / Breach of Contract

(1) What particular term(s) of the contract are relied upon as entitling the claimant to payment from the respondent or time off in lieu of additional hours worked?

(2) How does the claimant say those contract terms were agreed?

25 *(3) With whom was that agreement reached?*

(4) What was agreed?

(5) *When were the terms agreed?*

(6) *If the terms were agreed in a conversation, how did that conversation take place (e.g. in person at a particular place/ by video call / by phone)*

(7) *Were there any witnesses to that conversation, and if so, who?*

5 (8) *If the claimant relies on any documentary evidence to support her position that she had a contractual right to payment of additional hours worked, or to time off in lieu of additional hours worked, what documents or correspondence does the claimant rely on in respect of that right?*

10 (9) *When were those alleged contractual terms said to have been breached?*

(10) *When did the claimant raise with the respondent that those alleged contractual terms had been breached?*

15 (11) *If the claimant relies on any documentary evidence to support her position that she raised with the respondent that those alleged contractual rights had been breached, what documents or correspondence does the claimant rely on in respect of that?*

(12) *What amount does the claimant say is due to her in respect of unpaid wages for additional time worked?*

20 (13) *What is the basis of the claimant's calculation of the amount she claims in respect of additional hours worked?*

4. Schedule of Loss

25 *By 15 March 2023, the claimant shall prepare and lodge with the Tribunal, copied to the respondent, a written statement with supporting documentation setting out:-*

1) what the claimant seeks by way of remedy if the claims succeeds;

2) how much is sought in respect of each complaint with an explanation of how each sum is calculated;

3) *dates of any interviews attended and date of commencement of employment since termination of the claimant's employment with the respondent and details of any income since that termination, whether from temporary, casual or permanent employment or self-employed work;*

5 *No later than 14 days before the first day of the Final Hearing, the claimant shall prepare and lodge with the Tribunal an updated written statement of the calculation of the sum claimed (together with copies of supporting documentation) and shall simultaneously provide a copy to the respondent.*

5. Medical Report

10 *(1) By 5 April 2023, the claimant will obtain a medical report from her GP, seeking answers to the following questions:-*

1. From what date has the claimant been diagnosed with Fibromyalgia?

2. When did the claimant first present with symptoms of Fibromyalgia?

3. What are the effects of Fibromyalgia on the claimant?

15 *4. From when did the condition have that / those effects?*

5. How long are those effects likely to last?

6. Have any measures such as medical treatment or prescribed medication been taken to treat this condition?

20 *7. If that treatment had not been taken, what would be the likely continuing effect(s) of the claimant's condition?*

8. Without treatment, how long would those effects be likely to have continued.

(2) By 26 April 2023, the respondent will inform the claimant and the Tribunal whether or not it is accepted that the claimant has disability status in terms of the Equality Act 2023.

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A Preliminary Hearing ('PH') is scheduled for 11 May 2023, to determine whether the claimant has disability status in terms of the Equality Act 2023.

In the event of the respondent accepting that the claimant has disability status, the hearing on 11 May 2023 will be converted to a Case Management Preliminary Hearing ('CMPH'), to discuss further procedure and schedule the dates for the Final Hearing."

5 **The claimant's response and associated correspondence**

9. The claimant presented her response over the course of a number of emails, and it is important to ensure that the Tribunal takes into consideration all communications intended to be in compliance with the Order.

10 10. The first email was sent on 9 March 2023 by the claimant. The claimant appeared to rely upon a document or documents sent by her to the respondent in the past; she suggested that she had never had any time off due to her fibromyalgia and had never been approached by the respondent or by occupational health in this regard; she made certain assertions about having worked hard and about having suffered verbal discrimination at one point. The claimant then said, *"I have decided not to send any documents on my medical file as Babington and their HR failed to ask at the start of my employment and make any adjustment (whether necessary or not) but to make such statement shower (sic) that all doors were closed on my development and career at Babington."* It is not entirely clear what the second part of this sentence is intended to mean, but the first part is clear enough.

11. The claimant went on to inquire as to how the respondent had come to know about her current salary, to agree to mediation and to be open to settlement, none of which directly related to the Order issued by the Tribunal.

12. Her next communication came on 16 March 2023, in reply to an inquiry by the respondent, to the effect that nothing further to the email of 9 March had been sent by the claimant.

13. The Tribunal wrote to the claimant on 17 March 2023 to advise that Employment Judge Kemp did not consider that the claimant's message of 9

March accorded with the terms of the Order, though it was not clear to him whether that was because the claimant was not now arguing that there was discrimination on the grounds of disability. If that were not the case, she was advised that the Order had not been complied with and therefore the discrimination claim may be considered for strike out. She was therefore asked to set out her position within 7 days.

14. On the same day, the claimant emailed the Tribunal for the 3rd time following the Order having been issued. In that email, she said *“I will not send in documentation of this condition [fibromyalgia] as any company who requests information should have this file relevant on HR sources.”*

15. The claimant went on to make further comments about the conduct of the respondent in this matter. She did not specifically confirm whether or not she wished to pursue her claim of disability discrimination, but referred the Tribunal to her previous email about discrimination about fibromyalgia.

16. Perhaps unsurprisingly, the Tribunal wrote again to the claimant to maintain that the Employment Judge was still unclear as to the claimant’s meaning and intentions with regard to her discrimination claim, and required her to confirm whether or not she intended to proceed with it, and if so to comply with the Order, or otherwise to withdraw her claim. It was pointed out that it was not sufficient for the claimant to say that the respondent may have certain documents, as she required to comply with the Order.

17. On 24 March 2023, the claimant wrote to the Tribunal about the arrangements for the prospective Judicial Mediation, and also repeated her question about how the respondent found out about her current salaries. She did not respond to the Order in terms.

18. On 27 March 2023, the claimant emailed the Tribunal to say *“My position is as per email by 9th March 2023 at 16:53.”*

19. On the same date, the Tribunal acknowledged that email but pointed out that it did not address the questions asked by the Tribunal. She was advised that the Tribunal was considering striking out her claim of disability

discrimination on the basis that it may be that the claimant had failed to comply with an Order of the Tribunal.

20. On 27 March 2023, the claimant emailed the Tribunal in terms which were identical to the email of 9 March 2023, with some minor additions. The email
5 did not go further than the earlier email in addressing the Order, but wanted to ask why not only the respondent but also the Judge was not answering her questions about how the respondent knew about her current salary.

21. On 4 April 2023, the respondent wrote to the Tribunal summarising the history of events following the Preliminary Hearing of 1 March 2023, and
10 alleging that the claimant was not engaging with the process, and was a vexatious claimant. They went on to say that it was clear that the claimant had no intention of complying with the Orders of the Tribunal and therefore asked that both remaining claims be struck out.

22. In reply, on the same day, the claimant stated that she found Ms Carr's
15 comments offensive "*to state that as someone who is an HR professional as non-compliant.*" She went on to make further assertions about the respondent's failure to pay her according to her contractual rights, and then stated: "*I will not provide information to Babington on my health as they should have done the necessary assessments before and during my
20 employment to eradicate any stress or disadvantage to myself. However Miss Carr was the individual who stated personally why should we give you more work when you have fibromyalgia – I have asked the judge why she is still taking part in this communication as she can be classed as a witness??*"

23. She went on to say that "*I am not in the position to undertake Miss Carr job
25 role, however if training is needed on how to conduct and hold HR files then I am more than happy to advise.*"

24. On 12 April 2023, the claimant wrote to the respondent, copying her email to
the Tribunal, stating that she refused to have any more dealings with Ms Carr, and confirming that she had refused to give documents as they should
30 be within her HR file. She also stated that "*It is not for Babington to state if I have a disability as they are not medical professionals or professionals in*

any sense of the word.” She went on to state that that was the end of the discussion with Ms Carr from that moment, that any further dealings would amount to a conflict of interest and that the court was allowing this. The claimant did not explain what the alleged conflict of interest was.

5 25. On that same date, the claimant asked that her case and her concerns should be passed to the Regional Employment Judge.

26. On 14 April 2023, the Vice-President of Employment Tribunals (Scotland) responded to say that the claimant could raise at the forthcoming Preliminary Hearing fixed for 11 May 2023 the conduct of the respondent’s representative and reiterated the purpose of that Hearing.

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27. On 19 April 2023, the claimant emailed the Tribunal repeating, in simple terms, her assertion that she had a condition called fibromyalgia about which Ms Carr was aware. She maintained that she had complied fully, but felt that the case handling had been to the benefit of the “defendant”, which was why she had asked for a different Judge. She repeated then that there should be no documents produced as the respondent should have them on file and she did not see why she should have to resend anything which the respondent already had on file.

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28. On 19 April 2023, the Tribunal responded, at the direction of the Employment Judge, to advise that the claimant’s message did not comply with the Orders granted earlier.

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29. Following the adjournment of the Hearing on 11 May 2023 at the unopposed application of the claimant, further correspondence was received by the Tribunal.

30. On 12 May 2023, the claimant emailed the Tribunal to advise that she had submitted evidence to the Dundee Tribunal Office by post. She said that she had been told that that information did not appear to have been received, and she was reluctant to send more as she had already complied with the Order. She said that she did not wish the respondent to have full disclosure of her medical file, and wanted a restriction on the respondent in viewing the

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full documents. She had no issue with the Employment Judge viewing and confirming the matter to the respondent.

31. The claimant then did submit what appear to be copies of her medical records starting from 14 November 2022 until 12 May 2023.

5 32. On 18 May 2023, the claimant emailed again to confirm that she was compliant, and that evidence was submitted by post and online. She argued that the respondent had no right to state that she did not have a disability or suffer from fibromyalgia, particularly given that Ms Carr is not medically trained, and did not have the credentials to “*go against a GMC trained*
10 *doctor*”.

The relevant law

33. Rule 37(1)(b) of the Employment Tribunals Rules of Procedure 2013 provides:

15 *“At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds-*

...(b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;

20 *(c) for non-compliance with any of these Rules or with an order of the Tribunal...”*

34. Rule 37(2) provides:

25 *“A claim or response may not be struck out unless the party in question has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.”*

35. The well-known case of *Ezsias v North Glamorgan NHS Trust* [2007] ICR 1126 CA provides helpful guidance in considering whether to strike out a claim involving whistleblowing allegations, and said that the same approach should be taken in such cases as requires to be taken in discrimination

claims, which require an investigation to be conducted into why an employer acted in a particular way. It was stressed that only in an exceptional case will a case be struck out as having no reasonable prospect of success where the central facts are in dispute.

5 36. In *Blockbuster Entertainment Ltd v James* [2006] IRLR 630 CA, the Court of Appeal found that for a Tribunal to strike out a claim based on unreasonable conduct, it has to be satisfied that the conduct involved deliberate and persistent disregard of required procedural steps or has made a fair trial impossible; and in either case, striking out must be a proportionate
10 response.

37. The court went on to say (paragraph 21): *“The particular question in a case such as the present is whether there is a less drastic means to the end for which the strike-out power exists. The answer has to take into account the fact – if it is a fact – that the tribunal is ready to try the claims; or – as the
15 case may be – that there is still time in which orderly preparation can be made. It must not, of course, ignore either the duration or the character of the unreasonable conduct without which the question of proportionality would not have arisen; but it must even so keep in mind the purpose for which it and its procedures exist.”*

20 38. Sedley LJ, in *Bennett v Southwark LBC* [2002] ICR 881, considered the question of proportionality in the context of that appeal: *“But proportionality must be borne carefully in mind in deciding these applications, for it is not every instance of misuse of the judicial process, albeit it properly falls within the descriptions scandalous, frivolous or vexatious, which will be sufficient
25 to justify the premature termination of a claim or of the defence to it. Here, as elsewhere, firm case management may well afford a better solution....”*

39. The case of *Faron Fariba v Pfizer Limited & Others* UKEAT/0605/10/CEA was a case in which the EAT found that an Employment Judge was entitled to strike out claims by a claimant who had demonstrated by her disregard
30 for Tribunal orders and the allegations made in correspondence against the respondent, their solicitors and the Tribunal that she was incapable of bringing her complaints to a fair and orderly trial.

40. In reviewing the claimant's conduct, Mr Justice Underhill noted: *"Dr Fariba said at this hearing that the Tribunal was being distracted from dealing with her employment claim. I entirely agree with that statement, but in my judgment it is Dr Fariba who has not been focussing upon the specific legal claims that she wishes to have the Tribunal determine, but has consistently sought to divert attention from them by raising peripheral issues and making extensive and excessive allegations."*

41. At a later stage in the judgment, Mr Justice Underhill said: *"This is not... a case of the (not uncommon) kind where a litigant in person fails to meet deadlines and/or behaves unreasonably or offensively but is nevertheless doing his or misguided best to comply with the directions set by the tribunal in order to get to trial. Instead, the scatter of allegations of misconduct, the applications for a stay, the pursuit of other proceedings, the threats of resort to criminal or regulatory sanctions, clearly indicated that the Appellant's focus was entirely elsewhere and that if the case remained live she would, if I may use my own language, continue to thrash around indefinitely. That is why, and the sense in which, the Judge concluded that a fair trial was impossible."*

Discussion and decision

42. In this case, it is argued that the claimant has failed to comply with the Order issued by Employment Judge McManus following the Preliminary Hearing on 1 March 2023.

43. The Order was a lengthy one, which was set out in standard form, requiring the claimant to provide both answers to questions and medical information in order to clarify her claim and her basis for saying that she is a disabled person in terms of section 6 of the Equality Act 2010.

44. The claimant was, essentially, required by Order:

- i. by 15 March 2023, to provide an impact statement detailing the impact on her day-to-day activities of her condition of fibromyalgia;

- ii. by 15 March 2023, to provide further and better particulars of her claims, in relation to disability discrimination and unlawful deductions of wages/breach of contract;
- iii. by 15 March 2023, to provide a schedule of loss; and
- 5 iv. by 5 April 2023, to obtain a medical report from her GP setting out answers to a number of medical questions.

45. In response, on the information which is available to the Tribunal, the claimant has provided some few pages of her medical records, presumably her GP records. She has not disclosed those records to the respondent, nor
10 has she given permission for any information within those records to be passed to the respondent.

46. However, for the purposes of this decision, it is important to discern whether those records do in fact comply with the Tribunal's Order. They do confirm that under her medical history, the claimant's condition of fibromyalgia
15 appears against the date of 3 October 2015, which was, presumably, the date upon which it was first diagnosed. Without any context or medical explanation, the relevance of the other notes to this condition cannot be established by the Tribunal.

47. I am unable to establish whether or not the claimant has complied with any
20 other aspect of the Order issued by Employment Judge McManus. There is no evidence that the claimant has submitted a disability impact statement, further and better particulars, a schedule of loss or a report from her GP. It is said by the claimant that she has presented information by post to the Employment Tribunal in Dundee, but the only records which have been
25 made available to me are those short extracts from the GP records to which I have referred above.

48. In addition, the Order was accompanied by the standard warning that if it were not complied with either expenses could be awarded against her or her claim could be struck out.

49. Although the Order required the claimant to “obtain” a report from her GP, it is recorded at paragraph 13 of the Note following that the claimant agreed to “provide” a report from her GP.

5 50. The claimant has not complained about any ambiguity in the terms of the Order, nor has she sought to persuade the Tribunal to vary or revoke its terms.

10 51. In terms of the Order which was issued, the claimant has failed to comply. She has not provided any disability impact statement; she has not provided further and better particulars of her claim; she has not lodged a schedule of loss, and she has not provided a report by her GP.

52. The information which she has provided, namely a few extracts from her GP records from a restricted period, contain almost no direct reference to fibromyalgia other than its name against a date in October 2015, without any explanation of its meaning or impact upon her.

15 53. What the claimant has done is to correspond at length with the Tribunal and with the respondent in what can only be described as a disputatious manner, directing very strong and sometimes personal criticism at both the respondent’s representative and indeed the Employment Judge responsible for the case management of the case to date.

20 54. She has insisted on several occasions that she will not comply with the Order, in relation to medical information, for 3 reasons, as it seems to me: firstly, that she is not prepared to allow confidential medical information into the hands of the respondent, whom she clearly does not trust; secondly, that she is not prepared to hand over information to the respondent which
25 they already have, or should have, in their HR records; and thirdly, because the respondent is not a medical expert and therefore should not have access to her medical records. In short, her position appears to be that the Order does not require to be complied with because the respondent does not need more information it already has, or because they have no right to
30 see it as it is confidential.

55. What the claimant has singularly failed to acknowledge, and perhaps understand, is that none of this is an excuse for failing to comply with an Order of the Tribunal. The Tribunal has the authority to require from a party answers to questions and the provision of information in order to assist the process of justice. The Order which was issued carried with it the warning that non-compliance could see the claimant's claim being struck out.

56. The claimant's conduct of these proceedings has been characterised by a desire to make criticism of the respondent and its representative throughout. It is notable that on a number of occasions, the claimant has, instead of responding to the Order or to the Tribunal's correspondence about the Order, demanded answers to a question which she considers to be important, namely how the respondent has obtained information about her new employment. Those answers have been demanded not just of the respondent but also of the Employment Judge. This is extraordinary and indeed somewhat bizarre conduct. The Employment Judge case managing this case is not a party in the proceedings and cannot, and must not, be asked to explain any part of the case of either party. It is an entirely inappropriate way to proceed.

57. However, the issue before me is whether or not the claimant has complied with the Order issued by Employment Judge McManus. The stark reality is that the claimant has entirely failed to comply with that Order. She has engaged in irrelevant and distracting debates about other matters, and has suggested that the Order should not be complied with since the respondent already have the information they are seeking.

58. The claimant has failed to notice, however, that it is the Tribunal which has ordered her to produce the information under the Order, not the respondent, and that if she wished to take issue with the terms of the Order, she could have done so by objecting to it at the time, or applying to the Tribunal to vary or revoke it. What she has done, in effect, is to ignore it. This is unacceptable, and plainly non-compliant conduct with the Order.

59. Even if there were a basis for the claimant's concerns about confidentiality, they do not apply to the Order insofar as related to the requirement to

provide further and better particulars of the claims, or the schedule of loss. The claimant has apparently ignored these aspects of the Order.

5 60. It is clear from the authorities that striking out a claim, particularly one involving discrimination allegations, before any evidence has been heard, is a draconian sanction and one to be taken only in the most extreme circumstances.

10 61. I require to take into account that the claimant is an unrepresented party, whose knowledge of the law and of Tribunal procedure may be limited. However, against that, the terms of the Order have been set out in plain terms, with a clear warning as to non-compliance, and followed a Preliminary Hearing in which it was clear that the matters which were the subject of the Order were discussed with the claimant.

15 62. I consider that the claimant's response to the Order has been not only completely inadequate and non-compliant but also frankly obstructive, unhelpful and contrary to the interests of justice. She has been dismissive of the Tribunal's authority and has sought to distract both the Tribunal and the respondent from the matter at hand, namely whether or not she has taken at all seriously her obligation – and it is an obligation – to comply with an Order.

20 63. Rule 37(1)(c) clearly permits the Tribunal to strike a claim out on the basis that there has been non-compliance with an Order. In this case, the claimant has quite clearly failed to comply with the Tribunal's Order.

25 64. The Tribunal must consider whether or not it is possible that there will be a fair trial in this case. In my judgment, the complete disregard shown by the claimant for the Tribunal's authority by her dismissive attitude towards its Order is a clear indication that it will not be possible to have a fair trial in this case. The Tribunal requires that its Orders are complied with and its authority respected. The claimant has shown, over a consistent period of time, that she is unwilling to demonstrate compliance with the Orders of the Tribunal and to place herself above the requirements imposed by such
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Orders. She cannot be relied upon to comply with any further Orders of the Tribunal.

65. I have given some consideration as to whether this matter could be addressed by case management, but in this case it is clear, in my view, that the claimant was told on a number of occasions that she had not complied with the Order, but chose to do nothing to rectify that state of affairs.

66. Instead, she has sought to engage in personalised attacks on her opponent and on the Tribunal without properly seeking to pursue her claim before the Tribunal.

67. Accordingly, I am driven to the conclusion that the claimant's non-compliance with the Order of 1 March 2023 is clearly demonstrated, and that even if it were to be re-issued, for example with an Unless Order attached, the claimant would not take it seriously nor seek to comply with it. The fact that she has repeatedly suggested that she has complied with the Order does not amount to compliance, and in any event the evidence is clear that she has not, nor has she even attempted to do so.

68. This is, therefore, one of the regrettable cases in which the failure of the claimant to comply with an Order falls into the extreme category, and clearly amounts to deliberate conduct on her part, and that it is in the interests of justice, on the basis of all the information available to me, that the claim should be struck out for her failure to comply with the Order.

69. The claimant's claim is therefore struck out under Rule 37(1)(c).

Employment Judge:	M MacLeod
Date of judgment:	26/06/2023
Date sent to parties:	27/06/2023

I confirm that this is my Note and Orders in the case of Crammond v Babington and that I have signed the Note and Orders.