



EMPLOYMENT TRIBUNALS

Claimant: Mr R Knott

Respondent: Dover Harbour Board

JUDGMENT

The complaint of **unfair dismissal** is struck out.

REASONS

1. The Claimant submitted a claim on 27 April 2023, in which he stated his employment commenced on 5 September 2022 and ended on 13 March 2023. The Claimant ticked the boxes indicating that his claim was for unfair dismissal and age and disability discrimination. The Claimant did not contend, in his ET1 that his alleged constructive dismissal was “automatically” unfair for any of the reasons set out in the Employment Rights Act 1996.
2. A case management hearing took place before EJ King on 1 August 2024. The hearing was not fully effective owing to technical difficulties. The provisional list of issues prepared at this case management hearing included a claim for “discriminatory constructive dismissal”, but the remedies set out included reinstatement/re-engagement (which are only available under the Employment Rights Act 1996).
3. A further case management hearing took place on 1 November 2024 before EJ Wilson. The Claimant was informed during that case management hearing, and again in the Order arising from that hearing dated 13 November 2024, that he did not have sufficient service to bring a claim for unfair dismissal under the Employment Rights Act 1996. The Order confirmed that he brought a claim for “discriminatory” constructive dismissal under the Equality Act 2010. The Order does not record any further discussion in relation to any unfair dismissal claim under the Employment Rights Act 1996.
4. At a further Preliminary Hearing which took place on 17 – 18 December 2024 before me, the Claimant agreed that he did not have the two years of qualifying service to bring a claim under the Employment Rights Act 1996. The hearing was listed in part to allow consideration of the Claimant’s amendment applications. The Claimant made a large number of applications, some of which succeeded and some of which failed, as

set out in my Judgment on Amendment Application dated 19 December 2024, but did not apply to amend his claim to include any complaint of “automatic” unfair dismissal under any of the relevant sections in the Employment Rights Act 1996. In the Case Management Order arising from the hearing, I reiterated EJ Wilson’s statement that the Claimant did not have sufficient service to bring an “ordinary” unfair dismissal claim, and therefore that the remedies of reinstatement and re-engagement were not available to him.

5. On 1 January 2025, the Claimant applied for reconsideration of my judgment in relation to the amendment applications. He also asked for reconsideration of the statement in the Case Management Order that he had insufficient service to bring an unfair dismissal claim on the basis (i) that EJ King had deemed the dismissal to be automatically unfair as it was a discrimination case; and (ii) on the new basis that he considered the dismissal to be automatically unfair “as failure to make reasonable adjustments is a health and safety matter”.
6. By judgment dated 3 January 2025 I refused the Claimant’s application for reconsideration. In relation to the above matter, I refused the application on the basis that I had not issued any judgment to the effect that the Claimant could not bring an unfair dismissal claim. However, in the alternative, I found that the Claimant’s claim form raised no claim for “automatic” unfair dismissal. A claim for “discriminatory” constructive dismissal is not necessarily a claim for “automatic” unfair dismissal within one of the relevant sections in the Employment Rights Act 1996, and the Claimant’s claim form raised no grounds falling under any of those sections.
7. As no judgment appeared to have been issued in relation to the “ordinary” unfair dismissal claim, despite EJ Wilson’s earlier comments in the Case Management Order following the hearing on 1 November 2024, the Tribunal wrote to the Claimant on 24 January 2025 summarising the above background. Although the Claimant had been given various opportunities to explain his unfair dismissal claim on 1 November and 17 – 18 December 2024, he was given two weeks from the date of the letter to provide any further reasons as to why his complaint of unfair dismissal should not be struck out.
8. On 4 February 2025, EJ King issued a Case Management Order refusing a request by the Claimant for a transcript of the Case Management Hearing on 1 August 2024 to be provided at public expense. EJ King confirmed that the remedy of reinstatement was erroneously included in the case management order of 7 August 2024, and that the Claimant’s claims and the remedies available in those claims, had not been discussed at the Case Management Hearing on 1 August 2024.
9. By email dated 6 February 2025, the Claimant provided reasons as to why his unfair dismissal claim should not be struck out. He referred to an appeal to the EAT, which was not attached to his email, but which I have now seen, which reiterates the reasons given in his reconsideration application relating to automatic unfair dismissal (including an assertion that EJ King had said his claim was for automatically unfair dismissal in the 1 August 2024 hearing). In his email, he set out the reasons why he felt the remedy of reinstatement or re-engagement would be beneficial to him. These points have already been raised and discussed at previous hearings.
10. The Claimant has failed to make any sufficient representations at any of the above hearings or in writing as to why his complaint of unfair dismissal should not be struck out because he had insufficient service to bring it. The complaint of **unfair dismissal** is therefore struck out.

11. The Claimant's remaining claims of indirect age discrimination and disability discrimination remain listed for hearing on 2 – 11 November 2026.

Employment Judge Beale

10 February 2025

Sent to Parties.
12 February 2025