



EMPLOYMENT TRIBUNALS

Claimant:

Mr K Burke v

Respondent:

Equans E&S Solutions
Limited

Heard at: London (South) (via CVP)

On: 16 April 2025

Before: Employment Judge Fredericks-Bowyer

Appearances

For the claimant: In Person

For the respondent: Mr P Gorasia (Counsel)

STRIKE OUT

The claimant's complaint of constructive / unfair dismissal is struck out under Rule 38(1)(a) Employment Tribunal Procedure Rules 2024 because it has no reasonable prospects of success, the claimant having accepted that he is still employed, and he has not served notice to terminate his employment on the respondent.

REASONS

1. The claimant accepts he is still employed by the respondent but considers he has been put into a position that would allow him to claim constructive dismissal.
2. The claimant has not resigned from his employment. Resignation (the notice to terminate the contract) is required to take place before the Tribunal has jurisdiction to consider a complaint of constructive dismissal (Capek v Lincolnshire County Council [2000] EWCA Civ 181).

3. Consequently, the Tribunal has no jurisdiction to hear this complaint from the claimant. It is proportionate to strike out this complaint when there is no jurisdiction to hear it.
4. When asked whether the claimant would prefer to withdraw the complaint or have me strike it out for this reason, he agreed for the complaint to be struck out. It is therefore struck out.

Approved by: Employment Judge Fredericks-Bowyer

Dated: 16 April 2025

Sent to the parties on:
22 April 2025

For the Tribunal Office:

P Wing