



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss A O'Toole

**Respondent:** Teleperformance Limited

**HELD AT:** Liverpool (by CVP, remote)

**ON:** 7 April 2025

**BEFORE:** Employment Judge Johnson

## REPRESENTATION:

**Claimant:** Did not attend

**Respondent:** Ms Sopna Bhogale (ER specialist)

# JUDGMENT

The judgment of the Tribunal is that:

- (1) The claim is struck out under Employment Tribunal Rule 38(1)(c) because the claimant has not complied with a Tribunal order and because under Rule 38(1)(d) it has not been actively pursued.

# REASONS

1. These proceedings arose from the claimant's short period of employment with the respondent from 1 April 2023 to 27 September 2023 as a call advisor. She resigned with notice and argued that she was owed 77+ hours holiday pay.
2. She presented a claim form to the Tribunal on 18 December 2023 following a period of early conciliation from 6 November to 18 December 2023 and indicate that her claim was restricted to unpaid holiday pay.

3. A Notice of Claim was sent to the respondent on 11 January 2024 and to the claimant. It required the presentation of the response by 8 February 2024. It also made case management orders at numbered paragraphs 4, 5 & 6 with the relevant provisions below:  
  
*'4.1 a document setting out how much s/he is claiming and how the amount has been calculated;*  
*4.2 copies of all supporting documents and evidence.*  
*5. The respondent must by 6 weeks from the date of this letter send to the claimant copies of all its relevant documents and evidence.*  
*6. the claimant and the respondent are responsible for making sure any relevant witnesses attend the hearing.'*
4. The respondent applied for an extension of time for the presentation of their response and grounds of resistance on 20 May 2024, (which should have been provided by 8 February 2024).
5. On 8 November 2024, Employment Judge Batten allowed an extension of time, and the response was accepted which resisted the claim and argued that the claimant had been paid her total outstanding holiday pay when her employment ended. The case was listed for a final hearing and a Notice of Hearing sent to the parties on the same date with the final hearing date being today.
6. On 5 February 2025, following the consideration of concerns raised by the respondent, Employment Judge Johnson varied the case management orders because the claimant had not complied with them, in respect of disclosure and exchange of witness evidence.
7. On 8 March 2025, Employment Judge Leach gave permission for the hearing to be heard remotely by CVP.
8. On 27 March 2025, Employment Judge Holmes issued a strike out warning under Rule 38 of the ET Rules 2024.
9. It was issued because the claimant did not appear to be actively pursuing the case and/or was in breach of previously made case management orders. The claimant had failed to comply with the revised time limits for compliance with the orders that I had made on 5 February 2025.
10. The claimant was ordered to inform the Tribunal by 3 April 2025 confirming whether she objects to the strike out warning or to request a hearing. No reply was provided by the claimant.
11. The case was listed for a final hearing today to determine the claimant's complaint of holiday and the claimant had failed to provide copies of documents and witness evidence in support of their claim.
12. The claimant was called to see whether she would attend the hearing today and provided with joining details for the CVP hearing. When the Tribunal spoke with the claimant, I was informed that she did not say she could not

attend but said that she thought the claim had previously finished. It was not clear why she thought this was the case but, in any event, she failed to attend.

13. The Tribunal file confirmed that the claimant had not corresponded with the Tribunal since the claim form was presented.
14. Consequently, it was appropriate for the claim to be struck out under Employment Tribunal Rule 38(1)(c) because the claimant has not complied with a Tribunal order and because under Rule 38(1)(d) it has not been actively pursued.

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Employment Judge Johnson

Date 7 April 2025

JUDGMENT SENT TO THE PARTIES ON  
24 April 2025

FOR THE TRIBUNAL OFFICE

### **Notes**

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#### **Recording and Transcription**

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>