



## **EMPLOYMENT TRIBUNALS**

**Claimant:** Mr A Ahmed

**Respondent:** Trustees of the London Clinic

### **JUDGMENT**

The entire claim is struck out.

### **REASONS**

1. The respondent made an application on 12 May 2025 to strike out the claimant's second claim 6012096/25, filed on 8 April 2025. The second claim is a repetition of claim 601325/2024.

#### **Legal framework**

2. In considering this application I remind myself that Rule 38(1)(b) of the Rules provides that a claim may be struck out if 'the manner in which the proceedings have been conducted by or on behalf of the claimant has been scandalous, unreasonable or vexatious'. When considering whether to strike out a claim under this rule, there is a two-stage test, as confirmed in Hasan v Tesco Stores Ltd EAT 0098/16. The tribunal must first consider whether any of the grounds set out in rule 38(1)(a)–(e) have been established; and then, having identified any established grounds, it must decide whether to exercise its discretion to order strike-out, having regard to the overriding objective.

#### **The hearing**

3. By a letter dated 11 July 2025 the Tribunal gave the claimant notice of a preliminary hearing listed for 22 August 2025. The hearing was listed to determine, among other things, whether this second claim made against the same Respondent on the same set of facts as claim 601325/24, should be struck out under Rule 38 on the basis that it amounts to an abuse of process and is therefore scandalous or vexatious (in the sense that it is being pursued for some improper motive, to cause disruption or without any expectation of success).
4. The claimant appeared at the preliminary hearing on 22 August 2025. He did not provide any evidence but made submissions.

5. The basis of this application is that the claimant's second claim was nearly identical to the first claim, and that the claimant appeared to be trying to issue a new claim on the same set of facts, presumably to try and avoid his claim being struck out or to protect his position.
6. The respondent helpful set out in the grounds of resistance the differences between the two claims, and this was not disputed by the claimant. The second claim is the same as the first claim, save for the following:
  - a. the stated earnings and benefits figures differ;
  - b. The number of stated working hours have reduced;
  - c. the normal monthly take home figure has reduced;
  - d. At section 8 of his ET1 form, the Claimant has now only ticked religion/belief and race discrimination, whereas in the Original Claim, the Claimant ticked, (i) religion/ belief, (ii) race discrimination, (iii) sexual orientation and sex discrimination.
7. Importantly, the details of the claim at section 8.2 are identical in content to the original claim. Accordingly, whilst the claimant is no longer relying upon the protected characteristic of sex and sexual orientation, the facts of the second claim are identical to the first claim.
8. The claimant in his submissions did not deny that the claims were almost identical. This was not in dispute.
9. The respondent submitted that this was an abuse of process, and therefore falling within the scope of rule 38(1)(b). Ms Charalambous relied either upon the principle in Henderson v Henderson 1843 All Eng LR 378 or in the alternative on the *res judicata* principle, which is a fundamental principle of the English legal system, preventing repetitive claims. The Henderson principle is summarised by Sir James Wigram in that case as “*where a given matter becomes the subject of litigation in, and of adjudication by, a court of competent jurisdiction, the court requires the parties to that litigation to bring forward their whole case, and will not (except under special circumstances) permit the same parties to open the same subject of litigation in respect of matter which might have been brought forward as part of the subject in contest, but which was not brought forward, only because they have, from negligence, inadvertence, or even accident, omitted part of their case*’. In a Henderson type of claim, the crucial question is whether, taking into account all the circumstances, the party is abusing the process of the court by seeking to raise a matter that it could and should have raised before.
10. The claimant submitted that the reason he had submitted the new claim was that new evidence had come to light including allegations from the respondent that were not in the original claim form, in particular the relationship he had with a colleague. His claim said that she had behaved inappropriately and the response was that that the claimant had acted inappropriately. He said that this point was raised at the preliminary hearing and that he submitted another claim form to cover that point, because he didn't attend the preliminary hearing and he was under the impression that is what he needed to do. I asked the claimant whether he

had considered withdrawing the claim once he had received the respondent's objection and notification from the Tribunal that it was being considered as an abuse of process. He said that he did consider it but did not elaborate.

### **Stage one**

11. I have considered the submissions of both parties and whether the threshold in Rule 38(1(a) or (b) is met. I have concluded that the test in 38(1)(b) is met because claimant's conduct is highly unreasonable and scandalous, and is an abuse of process. My reasons are as follows.
12. First, the claimant's explanation for filing the second claim is not logical and does not withstand scrutiny. He submitted that he filed the claim to deal with the point about the allegations about his inappropriate behaviour towards his colleague being raised at the preliminary hearing. He was not present at the preliminary hearing. The point was in fact raised in the respondent's grounds of response to the first claim, so the timing does not fit. Further it does not follow that filing a new claim would be a way of dealing with a matter raised in the first claim. But more importantly, if he was attempting to deal with the point about the relationship, one would expect him to mention it. He did not. Instead, he filed a claim form with the same particulars as his first claim.
13. Second, the timing of the second claim raises concerns. He filed the new claim not when he received the response which contained the allegations on 29 October 2024, but on 8 April 2025. The deadline for complying with the unless order was 17 March 2025 and the letter from EJ Klimov asking for representations as to why the claim should not be struck out for failure to comply was the 4 April 2025. The claimant replied to that request on 7 April 2025 and then filed the second claim the following day.
14. Finally, I have taken into account that the claimant is a litigant in person and has no experience of Tribunal procedure. I have considered whether he was simply unaware of the consequences of filing a second, duplicative claim form. The claimant stated that he considered withdrawing the claim once he had received notice from both the respondent and Tribunal that it was being considered an abuse of process. He did not at any point attempt to withdraw the claim. It is logical that he therefore considered withdrawing it but chose not to do so, despite knowing that it was duplicative and an unreasonable way to conduct proceedings.
15. Having taken all the circumstances into account, I do not accept the explanations by the claimant as to why he filed the second duplicative claim. I have concluded that the explanation provided by the claimant has been developed after the events as an excuse for filing the second claim and are an attempt to mislead the Tribunal. The timing of the new claim leads me to conclude that the claimant filed the second claim as an attempt to get around the fact that his first claim had the potential to be struck out. This point was made to the claimant in the hearing and he did not respond to it. The claimant's behaviour in filing the duplicative claim is an abuse of process. The fundamental principle of *res judicata* applies here. The entire claim is a repetition and is an attempt to relitigate matters that are already before the Tribunal. In addition to the act of filing of the

claim, the claimant's conduct before this Tribunal to try and obfuscate the reasons for filing it are scandalous.

**Stage two**

16. I have considered the overriding objective found in Rule 3 of the Tribunal Procedure Rules. I have considered that the second claim does not add anything of substance to the claimant's claim; there are no new allegations. I have considered that allowing such a claim to proceed would render the unless order redundant. It would undermine the Tribunal's process and not be in the interest of justice. It would save considerable expense for the parties and the Tribunal. Taking into account the above and the nature of the claimant's behaviour, I have decided to exercise my discretion to strike out the claim as an abuse of process, which falls within Rule 38(1)(b).

Approved by:

**Employment Judge EJ Leonard-Johnston**

**1 September 2025**

JUDGMENT SENT TO THE PARTIES ON

3 September 2025

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FOR THE TRIBUNAL OFFICE