



EMPLOYMENT TRIBUNALS

Claimant: Miss A Hunter

Respondent: Ethos Academy Trust

Heard at: Leeds Employment Tribunal **On:** 31st July 2025

Before: Employment Judge L Bridge

Representation

Claimant: In person

Respondent: Miss Kaye (counsel)

JUDGMENT

1. The Claimant's application to strike out the part of the Respondent's response to the Claim relating to the DBS check not having been completed is refused.

REASONS

Background

2. The Claimant brings a claim against the respondent for breach of contract in that they withdrew her offer of employment after it had been accepted and a contract was formed.
3. Early conciliation took place between 17th and 23rd of May 2025.
4. ET1 was received by the Tribunal on 27th May 2025
5. An ET3 was received on 27th June 2025 with attached grounds of response.
6. On 24th July 2025 Employment Judge Miller converted the final hearing into a preliminary hearing to determine whether the Respondent's response should be struck out on the grounds that it has no reasonable prospect of success in accordance with Section 38(1)(a) of the Employment Tribunal Procedure Rules 2024.

The Hearing

7. The only evidence available at the hearing was a DBS certificate dated 8th May 2025 and one dated 9th May 2025.
8. No witnesses attended to give oral evidence.
9. Both parties made submissions.
10. The Claimant submitted that the part of the response relating to the DBS check should be struck out on the basis the certificate unequivocally evidenced that element of the conditional offer of employment to have been met.
11. The Respondent submitted that the condition required not only the certificate but that it be handed to Ms Booth (The school business manager) and this had not happened meaning there was an argument to be had with a reasonable prospect of success. Further the Tribunal was not in possession of all of the evidence to make a determination that there was no reasonable prospect of success of this element of the response.

The Law

The Tribunal's power to strike out

12. S38(1)(a) Employment Tribunal Procedure Rules 2024 states: -

“The Tribunal may, on its own initiative or on the application of a party, strike out all or part of a claim, response or reply on any of the following grounds—

(a) that it is scandalous or vexatious or has no reasonable prospect of success;”

Reasons

13. The Respondent's position in relation to this claim is that there was no contract of employment formed and therefore the contract cannot have been breached.
14. The reasons for this are threefold: -
15. Firstly, the offer of employment was conditional and the conditions in the offer letter had not been met.
16. Secondly, the DBS check had not been completed, and the certificate had not been passed to Ms Booth as specified in the offer letter.
17. Thirdly, no start date had been set for the employment to start.
18. The application was to strike out the second part of the response namely that the DBS check had not been complete because the Claimant has been able to provide to the Tribunal a certificate of DBS checks dated 8th May

2025, and the offer of employment was not withdrawn until the 14th May.

- 19.** To strike out this part of the response, I must be satisfied that there is no reasonable prospect of success.
- 20.** I am not so satisfied because the offer letter does not only say that the DBS certificate has to be received by the Claimant or processed, it says “DBS disclosure (the certificate will be sent directly to your home address, once received this should be presented to Ann Booth, School Business Manager”
- 21.** Therefore, the date on the certificate in itself does not preclude success on this ground.
- 22.** For the benefit of the Claimant, the test for striking out part of the response does not reflect any determination that will be made at the final hearing.

Approved by:

Employment Judge Bridge

3rd September 2025

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision. If written reasons are provided they will be placed online.

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. 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:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/