



EMPLOYMENT TRIBUNALS

Claimants: Mrs E Taylor
Mrs E Rodger
Mr N Rodger

Respondent: People Plus

STRIKE OUT JUDGMENT

The claimants' claims are not struck out

REASONS

1. The respondent applies for an order striking out the claims on the basis that they have no reasonable prospect of success.
2. It is trite law that a claim for discrimination will not readily be struck out at a pre-hearing stage.
3. The law is helpfully summarised in *Hussain v UPS UKEAT/0221/17/DM*

19. The power to strike out an ET claim is provided by Rule 37 of Schedule 1 of the 2013 Rules, which allows that an ET may strike out all or part of a claim on the basis that it has no reasonable prospect of success. This is, for example, to be contrasted with an ET's power to order that an allegation or argument may only be pursued upon the payment of a deposit, which requires that the ET consider that the allegation or argument in question has little reasonable prospect of success.

...

21. Guidance was further provided by the EAT in *Balls v Downham Market High School & College* [2011] IRLR 217 at paragraph 6. “6. Where strike out is sought or contemplated on the ground that the claim has no reasonable prospects of success ... the tribunal must first consider whether, on a careful consideration of all the available material, it can properly conclude that the claim has no reasonable prospects of success. I stress the word ‘no’ because it shows that the test is not whether the claimant’s claim is likely to fail nor is it a matter of asking whether it is possible that his claim will fail. Nor is it a test which can be satisfied by considering what is put forward by the respondent either in the ET3 or in submissions and deciding whether their written or oral assertions regarding disputed matters are likely to be established as facts. It is, in short, a high test. There must be no reasonable prospects.” (Original emphasis)

...

23. And further, where there is a dispute as to the reason for the dismissal, it has been stated that it would be very rare indeed that the dispute could be resolved without hearing from the party or parties who actually made the decision (per Langstaff J in *Romanowska v Aspirations Care Ltd* UKEAT/0015/14 at paragraph 15). ...

4. In *Ahir v British Airways* [2017] EWCA Civ 1392, the Court of Appeal gave the following guidance

16. There is force in Mr Burns's point. Employment tribunals should not be deterred from striking out claims, including discrimination claims, which involve a dispute of fact if they are satisfied that there is indeed no reasonable prospect of the facts necessary to liability being established, and also provided they are keenly aware of the danger of reaching such a conclusion in circumstances where the full evidence has not been heard and explored, perhaps particularly in a discrimination context.

Analysis

5. The claim is for notice pay. The basis of the claim is succinctly set out in the claim form as follows:

I, Emma Taylor, along with 2 colleagues worked for a chap called Julian Chambers for many years.

Julian suffered from multiple sclerosis and we were his in home care team.

Length of service;

Emma Taylor- 19 years

Emma Rodger- 18 years, and

Neil Rodger -8 years.

Julian was funded by South Glos Council for Independent Living and his funds were managed by People Plus who carried out HR/Payroll

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duties, and paid our salaries, however Julian was deemed as our employer.

Unfortunately Julian passed away on October 28th 2024 and since then we have been battling with People Plus regarding our statutory rights around redundancy and notice period payments.

As such we engaged the services of ACAS who were successful in conciliation talks which culminated in us finally receiving redundancy payments in Dec 24. However, People Plus have refused to engage in discussion around notice period payment which we believe are still owed.

6. The response contains the following paragraphs

Moreover, the Respondent is not the employer for any of the Claimants. The Claimants acknowledge this fact in section 8.2 of their ET1 form dated 14 February 2025. The Claimants were former employees of one of the Respondent's service users. The Respondent provides a support service to guide the end user on how to become an employer. Once such assistance has been provided, the service users are free to hire whom they wish. Julian Chambers was the service user, and any claim may be best directed to his estate following his death on 28 October 2024.

Regarding the redundancy payments referred to by the Claimants, in section 8.2 of their ET1, the Respondent would, as part of their payroll service to its service users, facilitate payments including termination entitlements. This does not however, alter the status of the relationship or create an employment contract with the Respondent. Any suggestion that it does is a continuation of the misconceived way in which the relationship has been interpreted

7. The claimants were asked for comments on that position and set out a reply on 21 May 2025 as follows:

The claimants cared for an individual for between 8 and 20 years. During the time of their employment the Respondent dealt with all monetary matters including payroll, pension, holidays and was the single point of contact for all pay enquiries. Upon the unfortunate death of the care receiver this support immediately stopped and the claimants had to go through ACAS to finalise any wages due, holiday pay and Redundancy. Eventually the Respondent finally satisfied all those points and paid what was due for those matters. They, however, did not pay any statutory notice period and it is this point that we are contesting.

The Respondent have copies of the contract of employment which covers both Redundancy and Notice periods/pay and they also administered an insurance policy that the care receiver had that they referred to whilst in dialogue with ACAS. Our simple questions are, if you are engaged to manage all monetary matters why pay wages, manage pensions, manage holidays, agree hourly rates, pay redundancy but then refuse to pay statutory notice pay? Who else

do we turn to if not the single entity that controlled all financial matters?

8. Following that correspondence I directed the tribunal to write the parties as follows

1. Whilst the tribunal is sympathetic to the position of Mr Taylor, the tribunal remains minded to strike out the claim against People Plus on the basis that the claimant's claim for notice pay must be made against their employer. Mr Taylor says there is a contract of employment [-] which must state who the employer was. Further, the claimants have been told by the respondent in its Grounds of Resistance that the employer was Julian Chambers, now deceased.

2. It is open to the claimants to apply for the estate of Julian Chambers to be substituted for People Plus as the respondent to this claim, or for another person if the claimants contend that a different person was their employer. If no further representations are made by 3rd July 2025 the tribunal will proceed to strike out the claim against the existing respondent on the basis that the claim has no reasonable prospect of success against it.

9. No further representations have been made. No application has been made to change the name of the respondent or at the estate of Mr Chambers to the claim.

10. Although I expressed a preliminary view in the direction sent to the parties, as set out above, it is necessary for me to ensure that my view is correct before I issue a judgment. I must be careful not to assume any facts in favour of the respondent. As the case law makes clear, if there is a dispute of fact, that can only be resolved at trial. On an application to strike out, I must take the claimants' cases at their highest.

11. People Plus is unlikely to be a legal entity, although it could be a trading name of an individual or the name of a partnership. Nevertheless the claim has been presented against that respondent and that respondent has responded. It is not necessary for the purpose of this decision to resolve the precise identity of the respondent.

12. The difficulty which the claimants face is that in their claim form they state that "Julian was deemed as our employer". They assert that People Plus carried out HR/payroll duties. If their claim went no further than that, I would have found that the claim had no reasonable prospect of success. A company used for the administration of payroll does not become a person's employer.

13. However, the claim form does go a little further in that it asserts that once the services of ACAS were engaged redundancy payments were made by People Plus. The respondent accepts that fact, setting out in its response that the respondent would, as part of its payroll service, facilitate payments including termination entitlements. However, if, by that point, Mr Chambers had died (as I understand to be the case), it is difficult to see on what basis instructions could be given to People Plus to make redundancy payments. It may be that they were made upon the instructions of the estate, but if so that is not pleaded. It may be that the respondent has a very good explanation as to why the redundancy payments were made which mean

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that the respondent was not the claimants' employer, the difficulty is that on an application to strike out the claim that cannot be assumed. In my judgment, it is necessary for the tribunal to consider the precise mechanics of how the relationship between People Plus, Mr Chambers and the claimants worked before a decision can be made about who the employer was. Moreover the claim form does not accept that Mr Chambers was the claimant's employer, it simply asserts that he was deemed to be their employer.

14. Although I am somewhat doubtful as to the strength of the claimants' claims I am not satisfied that there is no reasonable prospect of success and the claim will be listed for a short hearing.
15. Given that the only claims are for notice pay and the only issue is as to whether or not People Plus was the employer of the claimants, the hearing will be listed to take place by way of video for three hours.

Employment Judge Dawson

Date: 10 September 2025

ORDER SENT TO THE PARTIES ON
30 September 2025

Jade Lobb
FOR THE TRIBUNAL OFFICE