EMPLOYMENT TRIBUNALS

Claimant: ABC

Respondent: St Andrew's Healthcare

RECORD OF A PRELIMINARY HEARING

Heard: by CVP **On:** 14 November 2025

Before: Employment Judge McNeill KC

Appearances
For the Claimant: in person
For the Respondent: Ms E. Skinner, Counsel

RESERVED JUDGMENT

(1) The Claimant's withdrawal of his claim was a clear, unambiguous and unequivocal withdrawal and his claim comes to an end in accordance with rule 50 of the Employment Tribunal Procedure Rules.

(2) Neither of the exceptions to the Tribunal's obligation to dismiss a claim once it has been withdrawn, as set out in rule 51 of the Employment Tribunal Procedure Rules, is satisfied in this case and the Claimant's claim is therefore dismissed.

(3) If the Claimant wishes to make representations as to why his materially identical claim in case no. 6013909/2025 should not be dismissed, he should send his representations as to why that claim should not be dismissed to the Respondent and the Tribunal, in writing, within 14 days of the date that this decision is sent to him. His representations should be set out in paragraphs, should be no longer than 3 pages and the Claimant should apply font size 12. Any response from the Respondent should also be in writing, with the same directions as to length and font size applying and should be sent to the Claimant and the Tribunal within 14 days of receipt of the Claimant's representations.

(4) The Tribunal being satisfied that an order should be made under rule 49 of the Employment Tribunal Procedure Rules, the Claimant's name is anonymised in this judgment and he is referred to as "ABC".

(5) No further orders are made.

REASONS

The issues before me

1. This case was listed before me to consider the following questions, which were set out in a letter to the Claimant from the Tribunal dated 9 July 2025:

   (1) Did the Claimant clearly and unequivocally withdraw the claim?
   (2) If so, is it in the interests of justice that Case No. 6003932/2025 should not be dismissed?
   (3) If the claim was not withdrawn, should the Claimant have permission to add an additional respondent?

2. Time for the Respondent to enter a response to Case No. 6003932/2025 was extended until 28 days after this preliminary hearing.

3. The Claimant was directed to write to the tribunal and the Respondent within 14 days of the notice of today's hearing to say whether he applied for any adjustments to the tribunal procedure for the hearing. The Claimant applied to the Tribunal for an order that that the Respondent should be required to provide its response before this hearing as a reasonable adjustment. That application was refused by Employment Judge Warren and the Claimant was notified of that refusal in a letter dated 24 October 2025. The reasons for refusing the application were that it was not appropriate to require the Respondent to respond to the claim until it was known whether the case would be permitted to proceed or not.

4. At the start of the hearing, it was agreed with the Claimant as a reasonable adjustment that videos would be kept on only for me, the Claimant and the Respondent's representative, Ms Skinner. Others attending the hearing would turn their videos off.

5. A further letter from the Tribunal of 9 July 2025 indicated that today's hearing was to consider case management but both parties clearly understood that the hearing was to determine the matters in the letter setting out the specific questions set out above.

Factual background relevant to today's hearing

6. The Claimant was employed by the Respondent as a Speech and Language Therapist between 17 July 2023 and 13 January 2025. He resigned from his employment on 8 January 2025, with less than two years' service, and claims that he was constructively dismissed. His letter of resignation stated that his resignation was as a result of disability-related discriminatory treatment, including a failure to make reasonable adjustments. He said that there was a breach of the term of trust and confidence in his contract of employment and that the "last straw" was a "serious disability discriminatory incident".

7. The Claimant notified Acas of his potential claim against the Respondent on 8 December 2024 and an EC (early conciliation) certificate was issued on 13 January 2025.

8. The Claimant presented a claim to the Tribunal on 5 February 2025, which was accepted. He set out his by reference to fourteen different causes of action. His claim includes whistleblowing claims, claims for victimisation and harassment, direct and indirect discrimination, a failure to make reasonable adjustments, breach of contract and unfair (constructive) dismissal. He relies on the protected characteristics of disability, race and sex. He has also made reference to his religion.

9. On 16 March 2025 the Claimant wrote to the Tribunal as follows:

> "I wish to withdraw my entire claim because of my deteriorating health condition and because I am unable to sustain the stress of proceedings. Although I fear of the future retaliation measures by the respondent, I do not wish for the decision to be published online due to risk to my health and safety and further harm to my reputation. In any case tribunal decides to publish the decision of withdrawal then please if my name would be anonymised to "ABC" as there is serious harm to my health and safety due to risk of suicide if my name is published online and the harm this would cause me to commit suicide. As the respondent has not received the ET1 form yet hence there is no prejudice or financial loss of any manner to the respondent to apply for costs as this decision of withdrawing my claim is solely based on risk to health and safety. I request the employment tribunal to grant me with the anonymity and offer me support during this difficult time.
>
> Therefore I request for the entire claim to be withdrawn before sending the ET1 form to the respondent."

10. On 21 March 2025, the Claimant contacted the Tribunal again. He asked the Tribunal to disregard his request to withdraw his claim and stated that he wished to continue with his claims. He referred to struggles with his health and wellbeing and severe episodes of panic attacks. He referred to anxiety connected to his claims and said that he was seeking medical help. He said that he asked to withdraw his claims on 16 March because he "was getting calls from unknown numbers from the UK who were asking [him] to save the number on WhatsApp". He said that he was scared for his life but wanted to seek justice. He was concerned about his health and safety and for his life.

11. On the same day, the Claimant applied to add an employee of the Respondent as second respondent to his claim.

12. On 23 March 2025, the Claimant wrote a long and detailed letter to the Tribunal. He said that he was intending to bring a fresh claim and had notified Acas. The claims would be the same as in his first claim but would exclude a claim under section 19A of the Equality Act 2010. He referred in his letter to an Employment Tribunal case (**Hussain v Lacura Care Services Ltd)** in which a claim had been withdrawn (but not dismissed) and in which the Employment Judge concluded that it would not be an abuse of process for the Tribunal to consider a second claim brought by the Claimant on the same day that the Tribunal acknowledged withdrawal of the claim.

13. In the letter, the Claimant said that he had been disabled within the meaning of the Equality Act for several years, due to Complex-PTSD, autism, anxiety, depression, adjustment disorder and severe panic attacks. He had asked the

Respondent for documents under the DSAR process and alleged that the Respondent's responses to his request had been in bad faith and that his health conditions had been further deteriorating and there was risk to his health and safety. He said that it was the deterioration in his health that led him to write to the Tribunal in the terms he did on 16 March 2025.

14. The Claimant set out in his letter the relevant provisions of the Employment Tribunal Procedure Rules: Rules 50 and 51. He referred to relevant case law.

15. The second claim – case no. 6013909/2025 - was presented to the Tribunal on 21 April 2025. The Respondent has filed a holding response to that claim, pending the decision of the Tribunal on the questions to be determined by me today.

The hearing

16. At the start of the hearing I raised with the parties the fact that I was an Honorary Member of the Chambers from which the Respondent's representative, Ms Skinner, practises. I explained that I ceased practice as a barrister in 2018 and that I now carry out very little work through Chambers and only mediation and investigation work. I do not know Ms Skinner personally. She joined Chambers after I had ceased to be a full member and, although I may have attended the occasional social event at which she was present, that was the limit of our contact. I had no financial interest in the outcome of these proceedings.

17. I gave both parties an opportunity to make submissions on recusal. The Claimant applied orally during the course of hearing, and again in writing after I had given my decision on recusal, for me to recuse myself. He relied on actual and apparent bias. He said that he was being "ambushed by two individuals" (me and Ms Skinner) and argued that my continuing to sit as the judge at this hearing was in breach of his rights under numerous provisions of the European Convention on Human Rights, including his right to life under Article 2, his right to the prohibition from torture under Article 3, his right to a fair trial under Article 6 and his Articles 9 and 10 rights. He had understood that Employment Judge George heard the case and he would not be able to go ahead today without Employment Judge George. Because Ms Skinner was not from the Respondent's solicitors and was not named on the Tribunal record, he did not wish her to be present at the hearing and said that he would not feel comfortable with her there.

18. I considered the application to recuse by reference to the well-established principles in **Locabail v Bayfield** [2000] QB 45. I did not consider that there were any grounds for alleging actual bias in this case. I had no interest in the financial outcome of the case or any conflict of interest. The judge being a member of the same Chambers as a barrister who appears in front of them is not normally a reason for recusal. Barristers are not employees or partners in a set of Chambers and members of Chambers not infrequently appear in front of judges who are or previously were in their Chambers.

19. In relation to apparent bias, the Claimant had a clear suspicion of bias but I had to consider whether that suspicion was objectively justified, by reference to what

a "fair-minded and informed observer" might think. On the basis of the facts, would such an observer consider that there was a real possibility that I might be biased in hearing this case? I reminded myself of the case of **Smith v Kvaerner Cementation Foundations Ltd** [2006] EWCA Civ 242 in which the Court of Appeal rejected the proposition that an appearance of bias was established where a trial judge was a practising barrister and head of the Chambers of which one of the barristers appearing before him was a member. I concluded that the fair-minded and informed observer would not think that I might be biased in the current case.

20. After informing the parties of my decision and as the hearing moved forward, the Claimant alleged that I was discriminating against him and harassing him. He made it clear that he would leave the hearing if I did not recuse myself. I explained that he was at liberty to leave if he chose to do so but I strongly encouraged him to stay so that he could make representations on the questions raised in the Tribunal letter of 9 July.

21. The Claimant made similar allegations against Ms Skinner, whom he did not accept could be present at the hearing to represent the Respondent, in spite of my explaining to him her role as the barrister instructed by the Respondent's solicitors. The Claimant suggested that Ms Skinner and I may have been having some separate conversation about this case outside and even before this hearing. I confirmed to him that we had not.

22. The Claimant asked for a postponement of the hearing. I considered that application by reference to the overriding objective to deal with cases fairly and justly. His basis for seeking a postponement was that he did not accept that the hearing could fairly proceed with me as judge (or with Ms Skinner present as representative of the Respondent). I explained to him that parties were not at liberty to choose which judge heard their case and that I had made my decision on recusal. In the Employment Tribunal, it is not unusual for different judges to be allocated to different hearings in the same case. The interests of justice require me to consider the position of both parties. The Respondent objected to postponement. It had attended this hearing prepared to address the questions in the letter of 9 July 2025 and submitted that there was no reasonable basis for adjourning.

23. During a short break, when I was reading written submissions provided by Ms Skinner in relation to the substance of today's hearing, at 11.33 the Claimant wrote in the chat function that he had been "forced to leave" the hearing. He was not forced to leave. I had encouraged him to stay in the hearing and explained the implications of leaving. In an email sent to the Tribunal at 11.50, which I did not see until after completion of the Respondent's submissions on the matters before me, the Claimant repeated that I had treated him unfavourably and had forced him to leave the hearing, where he was unable to cope because of the discrimination and harassment. His repeated objection was to me sitting as Judge and to Ms Skinner as the Respondent's representative. The latter objection was without substance as I explained to him; the former objection was dealt with in my consideration of his application that I should recuse myself.

24. Between about 11.09 and 12.48 (a period encompassing two short breaks while Ms Skinner took instructions on postponement and I read some written

submissions, which had been sent to the Claimant) the Claimant sent numerous emails to the Tribunal. The first was a written application for the recusal of myself and Ms Skinner. The Claimant said that he would be leaving the hearing because of torture, harassment, ambush and illegal conduct of myself and Ms Skinner, making him unable to breathe and harassing him. There was then a letter to the Prime Minister complaining about the Claimant's rights being breached and not being given a fair trial and requesting urgent intervention. At 11.15, there was an email simply stating: "Emily Skinner is not a counsel to Respondent 1 and 2". At 1131, in a further email, the Claimant stated that he could not continue as Ms Skinner and I were harassing him. He alleged that I did not deal with his ECHR and Equality Act 2010 rights. The Claimant said that he was suicidal and could not continue in the proceedings.

25. At 11.33, in the longest of his emails, the Claimant repeated much of what he had already said in relation to recusal and then referred to various authorities, including the case of **Professor Frazer v University of Leicester** UKEAT/0155/13/DM) in which HHJ Eady QC (as she then was) refused an application that she should recuse herself (an authority he had put up on screen using the "share screen" function earlier in the hearing). That did not assist me, in that it was a decision entirely consistent with my decision not to recuse myself. At 11.35, the Claimant wrote in an email that he was suicidal, could not breathe and could not continue in the hearing. At 11.50, the Claimant wrote that he wished the proceedings to be adjourned "until primary matters raised by the Claimant are resolved". He stated that I had failed to explain exactly how his rights under the ECHR, the Employment Tribunal Rules of Procedure and the Equality Act were not violated by my being in the proceedings with Ms Skinner. At 12.03, the Claimant wrote an email to the Prime Minister and the SRA indicating that he was making a formal complaint against me and Ms Skinner.

26. The hearing resumed at 11.45, when Ms Skinner made submissions on the issues before me, as set out in the letter of 9 July 2025. She referred to her written submissions and then very properly referred me to the Claimant's letter of 23 March 2025, and in which he set out his position surrounding the communication of his wish to withdraw his claim on 16 March 2025. and to a 473 page bundle of medical records and other documents provided by the Claimant, making particular reference to entries at around the time he communicated his decision to withdraw his claim.

27. At 12.38, the Claimant asked in an email to enter the Tribunal room. He said that he would be in the room but refused to make any representations as he did not feel safe.

28. The Claimant was admitted to the Tribunal room by the Tribunal clerk at 12.40. He then wrote an email at 12.44 saying that he had entered the Tribunal hearing but did not have the mental capacity to give evidence. He wanted to appeal to the employment appeal tribunal (the EAT) and could not take any decision today. He repeated his intention to appeal in an email timed at 12.48 and said that he would be returning to the tribunal at 2pm, following an adjournment for me to consider my decision.

29. At 2pm, with both parties present, I informed the parties that I would be reserving my decision in relation to the issues set out in the letter of 9 July 2025. I asked

for the parties' submissions on the third question raised by Employment Judge George - whether the Claimant should have permission to add an additional Respondent in the event that I found that the claim was not withdrawn. I also asked for their submissions on the time for filing a response (in the event that I found that the claim was not withdrawn) and on the Claimant's application for anonymity.

30. The Claimant repeated that his claim was not withdrawn. He said that he was not in a good mental state when he sent the email on 16 March 2025. His decision needed to have been unequivocal and irrational. He sent the email with fear and it was not valid. Although submissions on this issue had been completed before the lunch break, I listened to what the Claimant said, which was consistent with what was in his letter to the Tribunal of 23 March 2025.

31. The Claimant said that he did not require permission to add a second Respondent. He submitted that the proposed second respondent, was an important part of his case and her role was instrumental to his claim. The Claimant said that his mental state and mental capacity did not enable him to explain everything today. He wanted to add a third respondent to these proceedings, the Health and Care Professions Council, against whom he already has a claim (Case No. 6029463/2025). He submitted that he did not need permission to join this third respondent.

32. The Respondent objected to the addition of the second respondent. There was no need to name her as a party. If she was found to have acted unlawfully towards the Claimant on the basis of any allegations in his pleaded case, the Respondent would accept that it was vicariously liable for her actions. The balance of prejudice and the interests of justice lay in refusing the application. The Respondent's solicitors and counsel were not instructed on behalf of the proposed third respondent.

33. Throughout this hearing, when he was present, the Claimant presented as agitated and distressed. I had no reason to doubt his medical history, included in his 473 page bundle. The medical records cover a period from December 2024 and refer to the Claimant's anxiety symptoms, depression, an adjustment disorder, complex PTSD, apparently associated with traumatic childhood events, and to his being a suicide risk (I could see no reference to autism). The bundle also includes evidence that the Claimant was applying for work in the NHS as a Speech and Language Therapist in early May 2025.

34. The Claimant's conduct during the hearing before me was disruptive. He refused to accept the authority of the Tribunal or Counsel's legitimate role as representative of the Respondent; he interrupted the process and repeated again and again matters already raised and (in the case of recusal) already determined. There was little sign that he was prepared to cooperate with the Tribunal, as required under the overriding objective in rule 2 of the Employment Tribunal Procedure Rules. I did not remove the Claimant from the hearing, as I might legitimately have done, because I was aware of his obvious level of distress and the evidence before me as to his poor mental health. I also wanted to hear his representations on the questions I was required to decide. It was clear from his letter of 23 March 2025 that he understood the issues to be addressed at this hearing but would not engage with the issues because he did

not accept my decision on recusal or that Ms Skinner was a legitimate representative of the Respondent. I observed that the Claimant was more engaged and considerably calmer when he returned to the hearing at 2pm. He then became very distressed again at the end of the hearing.

35. The Claimant's right of appeal to the EAT on matters of law was confirmed to him.

Rules of Procedure

36. In considering the matters set out in the letter from the Tribunal of 9 July 2025, I was required to apply rules 50 and 51 of the Employment Tribunal Procedure Rules 2024.

37. Pursuant to rule 50:

> Where a party advancing a claim informs the Tribunal either in writing or in the course of a hearing that their claim or part of it is withdrawn, the claim, or part, comes to an end, subject to any application that the party responding or replying to the claim may make for a costs order, preparation time order or wasted costs order.

38. Rule 51 relates to dismissal following withdrawal and provides as follows:

> Where a claim, or part of it, has been withdrawn under rule 50 (end of claim), the Tribunal must issue a judgment dismissing it (which means that the party advancing it may not commence a further claim against the party responding or replying to it raising the same, or substantially the same, complaint) unless –
>
> (a) the party advancing the claim has expressed at the time of withdrawal a wish to reserve the right to bring such a further claim and the Tribunal is satisfied that there would be a legitimate reason for doing so, or
> (b) the Tribunal believes that to issue such a judgment would not be in the interests of justice.

Law

39. The test for withdrawal under rule 50 is set out in the case of **Segor v Goodrich Actuation Systems Ltd** UKEAT/0145/11/DM, a case referred to both by the Respondent in submissions and by the Claimant in his letter to the Tribunal of 23 March 2025. **Segor** is authority for the proposition that, in order for a claim to be validly withdrawn, the withdrawal must be clear, unambiguous and unequivocal. Once a clear, unambiguous and unequivocal notice of withdrawal has been given, it cannot be revoked and the withdrawn claim cannot be revived: **Khan v Heywood & Middleton Primary Care Trust** [2006] IRLR 793.

40. Where a claim is withdrawn but is not dismissed, a claimant may bring a fresh claim on the same facts: **Campbell v OCS Group UK Ltd** [2017] ICR D19 EAT.

41. While there is no requirement to provide a claimant with an opportunity to make representations before a claim is dismissed, whether within the rules or otherwise, tribunals may make enquiries where the circumstances of withdrawal give rise to reasonable concern on the tribunal's part about whether a claimant genuinely wishes to withdraw their claim and understands the implications of withdrawal. In those circumstances, the tribunal may make such enquiries as

appear appropriate to ensure that the purported withdrawal is clear, unambiguous and unequivocal: **Campbell v OCS Group UK Ltd**.

42. Many of the reported authorities, including **Segor (**referred to as the "pause and check" authorities), involve circumstances where notice to withdraw a claim was given during the course of proceedings. In those cases, it may be incumbent on the Tribunal to make some attempt to ensure that the individual understands the significance and consequences of withdrawal as the withdrawal must be clear, unequivocal and unambiguous. However, even at a hearing, it would be exceptional for a tribunal to enquire about the reasons for the decision to withdraw: **Drysdale v Department of Transport (Maritime and Coastguard Agency)** [2014] EWCA Civ 1083.

43. The general rule under the Employment Tribunal Procedure Rules is that a case must be dismissed if there has been a valid withdrawal. It will be rare for an Employment Judge not to dismiss a claim following its withdrawal: **Baker v Abellio London Ltd** [2018] IRLR 186. In **Baker,** the EAT found, on the particular facts of that case, that this was a rare case in which the withdrawal was obviously ill-considered and irrational, as the Claimant had a straightforward wages claim against the Respondent that was bound to succeed.

44. The Claimant referred me to the decision of the Employment Tribunal in **Hussain v Lacura Services Ltd** Case nos 2402686/2024 & 2403748/2024. The decision of another Employment Tribunal is not binding on this Tribunal but I did read the decision and, in particular, paragraphs 36 to 40, referred to by the Claimant. The issues in that case were not the same as the issues in the current case but there were some similarities in relation to the reasons relied on by the claimant for withdrawing a claim and the interests of justice were considered in relation to striking out Mr Hussain's case.

Submissions

45. The Respondent submits that the withdrawal notice of 16 March 2025 was clear, unambiguous and unequivocal.
    i. It was made in writing via the Portal in completely clear, unambiguous and unequivocal terms.
    ii. It was not made during the course of a hearing (unlike the "pause and check" line of authorities).
    iii. The terms of the withdrawal notice made clear that the Claimant understood the consequences of withdrawal including a possible application for costs.
    iv. Contemporaneous correspondence contradicting/rescinding the withdrawal might have rendered it an ineffective notice, but the Claimant did not apply to revoke his withdrawal until 5 days later on 21 March 2025.

46. The Respondent submits that as a clear, unambiguous and unequivocal withdrawal notice was given, under rule 50, the withdrawal cannot now be revoked.

47. The Claimant did not express at the time of withdrawal a wish to reserve the right to bring a further claim, so the exception in rule 51(a) does not apply.

48. The Claimant should not benefit from the exception in rule 51(b):

i. The Claimant's decision was not "obviously ill-considered and irrational". The Claimant has a very fact sensitive claim that will require a lengthy trial on the merits to determine. The case is not analogous with **Baker** where the claimant had an unanswerable claim.
ii. The interests of justice and the overriding objective favour finality in litigation. Claimants should not be able to change their minds and re-issue the same proceedings after a clear, unambiguous and unequivocal withdrawal save in very rare cases, such as **Baker.** This is not such a case. Many claimants have a change of heart after withdrawing their claim but that does not mean that their claim should not be dismissed so that they can re-issue the same claim. It it did, it would cause injustice to respondents and put undue pressure on the limited resources of the Tribunal.

49. The Respondent asks the Tribunal to find that the claim was withdrawn and under rule 50 and to dismiss the claim under rule 51.

50. The Claimant set out his position in relation to these preliminary issues in his letter of 23 March 2025. As he decided to leave the hearing when submissions on the preliminary issues were being made, he did not have the opportunity to develop his submissions orally but his submissions and representations, as set out in his letter were clear and based on relevant research.

51. The Claimant described in his letter his deteriorating health condition. He said that there were multiple factors that had caused him to communicate the withdrawal of his claims to the Employment Tribunal on 16 March 2025. His health condition was deteriorating, which he attributed to the Respondent's unreasonable and disproportionate response to the lawful Data Subject Access Request (DSAR) that he had made. He said that this had caused him "extreme duress, severe distress, and worsened [his] anxiety, depression and panic attacks". He said that when he sent the communication on 16 March 2025 he was incapacitated and suffered from "extreme life threatening distress", which he attributed to the Respondent's conduct towards him. He said that the communication on 16 March 2025 was therefore ambiguous. He referred to excerpts from the judgments in both **Segor v Goodrich Actuation Systems Ltd** and **Campbell v OCS Group UK Ltd.**

52. The Claimant referred to medical evidence provided to the Tribunal and submitted that his decision, as set out in his communication of 16 March 2025, was ill-considered and irrational. He said that his mental health condition raised concerns about his capacity at the time he sent the communication. His wish to continue with his claim was evidenced by his notification to ACAS on 14 March 2025 in relation to adding a second respondent to his claim. He had also written to the Employment Tribunal on 12 March 2025 asking for an update on his claim.

53. The Claimant referred to having received threatening calls on his phone on 14 March, which scared him, and to entries that he had made on 14 and 15 March in relation to his emotional state and suicidal thoughts. He said that he was struggling with his deteriorating health condition and was under extreme distress and suicidal. He was unable to cope and his letter of 16 March was a "fight vs flight" response for his "health and safety". He referred to his applications for anonymity and a restricted reporting order in the proceedings and to some

communications with the Respondent, including a refusal by the Respondent to provide him with a pdf of his P45, the Respondent rather telling him that the P45 would be sent in the post.

54. The Claimant submitted that his withdrawal was not unambiguous and was not unequivocal. He relied on the matters already referred to and also that he had said in his communication on 16 March that he feared "future retaliation measures by the respondent". He submitted that this created ambiguity as it was unclear whether he was withdrawing his claim entirely and voluntarily or was being coerced, pressurised and threatened to withdraw". He said that this also highlighted his intention to bring future claims.

55. The Claimant referred to his deteriorating health in connection with the processing of his claim, communication with the Respondent and the lack of affordability of legal advice. He said that on 16 March, he had reached a "point of crisis". As at 23 March, the Employment Tribunal portal was showing his requests, applications and ET1 form to be still "under progress".

56. In relation to rule 51(a) of the Procedure Rules, the Claimant referred to all matters raised by him and specifically his saying that he feared "future retaliation measures by the respondent" as his demonstrating an intention and reserving the right to bring a future claim.

57. In relation to rule 51(b), he submitted that it would not be in the interests of justice to dismiss his claim. He set out a list of the reasons why he contended that he had strong and meritorious claims for unfair dismissal, discrimination, victimisation, harassment and whistleblowing. He referred to settlement discussions with the Respondent. He submitted that it would cause him considerable injustice if his claims were not litigated in the Employment Tribunal, where the Respondent and the proposed second respondent could be held accountable. Both he and other members of his family had, he said, been seriously harmed by the Respondent's unlawful treatment of him.

58. The Claimant contended that there were high profile public interest reasons why his claim should be permitted to proceed. He referred to cases brought by other former employees of the Respondent, including cases involving whistleblowing and discrimination. He referred to his own status, as being a person on a Skilled Worker Visa sponsored by the Respondent as something that made him particularly vulnerable and said that there was a culture of treating vulnerable employees in a similar unfair and discriminatory manner. He describes himself as a "scapegoat", targeted by the Respondent with a smear campaign aimed at destroying his career and professional reputation and causing serious injury to his health and wellbeing. He refers to a "pattern" of the Respondent treating its employees in the way he has been treated.

Discussion and Conclusions

59. I first considered whether the Claimant's communication of 16 March 2025 constituted a clear, unambiguous and unequivocal withdrawal of his claim.

60. The Claimant began that communication by saying that he wished to withdraw his entire claim because of his deteriorating health condition and because he

was unable to sustain the stress of the proceedings. The last sentence of the communication was that he requested for the entire claim to be withdrawn before sending the ET1 to the Respondent.

61. The Claimant's reference to having a "fear of future retaliation measures by the respondent" must be read in context. The relevant sentence reads: "Although I fear of the future retaliation measures by the respondent, I do not wish for the decision to be published online due to risk to my health and safety and further harm to my reputation." The Claimant asked for anonymity if the decision were to be published online because of a risk of suicide if his name were published. The Claimant referred to costs, clearly recognising a risk that he could be liable for costs as a consequence of withdrawal, and providing reasons (the early stage at which withdrawal was being requested and health and safety) why he should not pay costs.

62. The Claimant, I accepted, was suffering from poor mental health when he communicated his decision to withdraw but this does not mean that the withdrawal was obviously ill-considered and irrational. The stated reasons for withdrawal – that he felt unable to sustain the stress of the proceedings and the potential impact of the proceedings on his health and reputation – were cogent and rational reasons to withdraw.

63. On a straightforward and ordinary reading of the Claimant's communication on 16 March 2025, he was clearly, unequivocally and unambiguously withdrawing his claim.

64. There was no medical evidence before the Tribunal to suggest that the Claimant did not have the mental capacity to make a decision to withdraw or that he was being coerced, pressurised or threatened by the Respondent to withdraw his claim, as he alleged. The fact that the Claimant had recently been in communication with the Respondent and that the information on the portal showed that his claim was still under progress do not affect the clarity or otherwise of what he was communicating on 16 March. I do not find that there was anything in this case that should have triggered an enquiry by the Tribunal as to whether the Claimant really wanted to withdraw his claim when he had clearly, unambiguously and unequivocally stated that that was what he wished to do for cogent reasons.

65. On that basis, I find that the claim was withdrawn and, in accordance with rule 50, the claim therefore comes to an end.

66. A withdrawal does not finally determine the claim but the regime of rules 50 and 51, read together, is consistent with the policy that there should be finality in litigation. Once a claim has been withdrawn, it must be dismissed unless one of the exceptions set out in rule 51(a) and (b) applies.

67. The Claimant first relies on the exception in rule 51(a). He contends that his reference to fearing future retaliation measures by the Respondent in his communication of 16 March 2025 demonstrates an intention and a reservation of his right to bring a future claim. I rejected this contention. There is no reference to the Claimant intending or reserving the right to bring a future claim in his

communication of 16 March and the words he relies on cannot, as a matter of ordinary language, be interpreted to mean what he says they mean.

68. The next question is whether the exception in rule 51(b) applies. Would a judgment dismissing the claim not be in the interests of justice? In accordance with the judgment of Slade J in **Baker v Abellio London Ltd**, it will be "a very rare case that an Employment Judge does not dismiss a claim after its withdrawal". **Baker** was such a case, where the Employment Judge should not have dismissed the claim, because the claimant's claim for unlawful deduction from his wages was unanswerable.

69. Clearly any claimant who withdraws a claim and then regrets their decision may feel a sense of injustice. Where a claim is dismissed, a valid and even strong claim may be shut out with no prospect of it being resurrected. But this is not enough to meet the "interests of justice" test, which should take into account the position of both parties, as well as the general policy that there should be finality in litigation.

70. The Claimant's case before this Tribunal cannot properly be described as unanswerable. Strong allegations are made against the Respondent by reference to many different heads of claim. These claims are largely fact-sensitive claims, in relation to many of which the Claimant makes allegations as to what he or others said or did at particular times. Some claims are, on their face, reasonably arguable claims. Other claims may have poorer prospects of success, for example the claim for unfair (constructive) dismissal where the Claimant has less than two years' service and the letter of resignation referred only to disability discrimination as triggering his dismissal. This is not a case which can be said to be analogous to **Baker** and it is not an exceptional case in the **Baker** sense.

71. I went on to consider whether the Claimant's medical conditions and their symptoms, as evidenced in medical records from December 2024 and described by the Claimant, was well as the calls that he referred to having received from an unknown caller shortly before he withdrew his claim, render his claim one where, exceptionally, the claim should not be dismissed following a valid withdrawal. Every case is different and must be considered on its own facts. There are, however, very many claims brought in the Employment Tribunal where self-representing claimants (litigants in person) with disabilities constituting mental impairments within the meaning of the Equality Act 2010 bring the type of multiple claims that the Claimant has brought in the current case and assert that they have made protected disclosures in the public interest and that it is in the interests of other employees and in the public interest that their claims be heard. Some of those claims will succeed and others will fail.

72. Discrimination claims (particularly disability discrimination claims) and whistleblowing claims often involve complex questions, legal analysis and a process that is not always easily accessible to a person representing themselves. It is often impossible in practice for a litigant to be able to source legal advice that is free or affordable. Employment Judges do what they can to ensure the parties are on an equal footing by assisting where they can with matters of law and process, where they can do so in a manner consistent with their duty to be impartial.

73. I make no adjudication on the merits of the Claimant's case here and do not doubt the stress he has experienced in bringing his claim. Indeed, on the face of his communication of 16 March 2025, it was substantially because of his medical conditions and his mental state that he decided to withdraw his claim.

74. I note that the Claimant contacted ACAS in relation to bringing a claim against the proposed second respondent on 14 March 2025, that ACAS issued a certificate on 19 March, that the Claimant sought to add the second respondent to the claim on 21 March and that he presented a second and virtually identical claim to the current claim, which included the second respondent, on 21 April 2025. This does not make the circumstances here exceptional. The obvious step to take for a claimant who believes their claim has been or may be dismissed is to issue a second claim.

75. In short, I do not find that there is anything in the Claimant's claim that makes it rare or exceptional so that the normal rule on dismissal of claims should be departed from. I must therefore issue a judgment dismissing the claim.

76. Had I not reached that decision, I would have taken into account in considering whether it was not in the interests of justice to dismiss the claim, the Claimant's conduct during the hearing. I do not question the genuineness of his level of distress during the hearing nor do I doubt that his level of distress was linked to his poor mental health. However, his refusal to engage with the hearing after the decision on recusal was communicated to him; his repeated refusal to remain in a hearing at which I and the Respondent's legitimate representative were present; his repeated contentions that the Tribunal was acting in breach of his multiple human rights, including the right to life and the right to be protected from mental or physical torture; and his repeated contentions that the Tribunal was discriminating against him and harassing him, caused me real doubt as to whether the Claimant would ever comply (or be able to comply) with his general duty to cooperate with the Tribunal and the other party as required by the overriding objective in rule 2 of the Rules of Procedure so that the case could be determined fairly and justly, taking into account the interests of both parties. In the event and in view of my earlier finding, this was not an issue that I had to decide.

Final matters

77. In the light of my decision that the claim was withdrawn and should be dismissed, the third question in the letter of 9 July 2025 (whether the Claimant should have permission to add an additional respondent to the claim) did not arise. The question of extending time for the Respondent to file a response also does not arise as the claim is dismissed.

78. The normal consequence of the claim being dismissed is that the second and materially identical claim, case no. 6013909/2025, would also be dismissed by reason of the doctrine of *res judicata.* At the conclusion of the hearing, the Claimant said that he wished to make representations as to why this consequence should not follow in this case. He mentioned dishonesty as a reason why *res judicata* should not follow. I did not consider that this matter could be fairly considered during this hearing. If the Claimant wishes to make

representations as to why the second claim should not be dismissed also, he should send such representations to the Respondent and the Tribunal in writing within 14 days of the date that this decision is sent to him. The representations should be set out in paragraphs, should be no longer than 3 pages and the Claimant should use font size 12. Any response from the Respondent should also be in writing, with the same directions as to length and font size applying. They should be provided within 14 days of receipt of the Claimant's representations.

79. I considered the Claimant's request for anonymity and weighed up the importance of open justice and the convention right to freedom of expression, against the Claimant's Article 8 rights and the interests of justice. At this point in the proceedings, the Claimant was not giving evidence and a restricted reporting order under section 12 of the Employment Tribunals Act 1996 does not fall to be considered. Rule 49 of the Procedure Rules does apply. Having heard from both parties, I concluded that in the light of the Claimant's mental health conditions, including the suicide risk alluded to by him, and both the health and reputational risks of public disclosure of his identity, which could hamper his search for future employment, I did consider it appropriate to anonymise the Claimant in this judgment. He will therefore be referred to as "ABC" as he has requested. As his claim is being dismissed, there is no need to make any further anonymity order.

Approved by Employment Judge McNeill KC

20 November 2025

Sent to the parties on:

27/11/2025
For the Tribunal Office: