



EMPLOYMENT TRIBUNALS

Claimant: Mr G DeSouza
Respondent: Dnata Catering UK Limited

Heard at: Reading Employment Tribunal (by video)
On: 13 October 2025
Before: Employment Judge George

Representation

Claimant: In person, accompanied by Mr H N'Dow, Lay representative.
Respondent: Mr E Nutman, solicitor

PRELIMINARY HEARING JUDGMENT

The claim is struck out for non-compliance with an order of the tribunal under rule 38(2)(c) Employment Tribunal Procedure Rules 2024.

REASONS

1. I have had the benefit in this hearing of a short preliminary hearing file running to 47 pages. Page numbers in these reasons refer to the pages in that hearing file. I have taken into account the documents in that file but the documents also on the tribunal paper file. Mr DeSouza also drew my attention to his schedule of loss, and I have received a copy of that separately. Mr DeSouza represented himself and was accompanied by Mr N'Dow, who was formerly his representative. At today's hearing, the claimant explained that he wished to be the contact point for the tribunal himself, that he effectively wishes to represent himself in the litigation but would take advice from Mr N'Dow. He has spoken on his own behalf, leaning heavily on what Mr N'Dow's advice - which he is perfectly entitled to do. I have also permitted Mr N'Dow to address me in relation to some points where the claimant said the point could more conveniently be explained that way.
2. Conciliation in this case ended on 27 June 2024 and the claim form was presented on 6 July 2024. Unfortunately, a preliminary hearing for case management had to be postponed at short notice because of non-availability of judges and it was re-arranged for 10 July 2025 when it was conducted by Employment Judge Warren.
3. Neither the claimant nor Mr N'Dow, who was named as his representative on the claim form, attended that preliminary hearing. Mr N'Dow was telephoned, and he informed the tribunal that it was short notice and he was not able to attend

(see paras.6 & 7 of Judge Warren's order page 36). However, a notice of hearing had been sent to both parties on 14 May 2025 and so the claimant, through his representative, had about three months' notice of the date of the hearing. Mr DeSouza was unable to explain to me why that was short notice. As will be seen, the judge's written record of the hearing was only sent to the parties on 22 August 2025.

4. In the meantime, the respondent wrote to both the claimant and his representative on 14 July explaining what had been done in their absence by the Employment Judge (page 31). In that they explained that the hearing had gone ahead in the claimant's absence and (among other things) had ordered the claimant to provide further and better particulars of his claim and schedule of loss by 5 August 2025. Ms Hughes, who had conducted the matter for the respondent's representative, explained in her email "In relation to the particulars of claim it is the information in yellow highlight on the attached list of issues that you need to provide."
5. The draft list of issues attached to that email (and which was before the judge on 10 July 2025) is at page 32 to 33. By it, the respondent states that they understand the complaints within the jurisdiction of the Tribunal to be harassment under s.26 Equality Act 2010 (hereafter the EQA) and victimisation under s.27 EQA. However, they state that the claim is unclear because the claimant has not stated what protected characteristic within the EQA he relies on. So, the "information in yellow" that the claimant was directed to provide was
 - a. to identify the protected characteristic for the harassment claim (para.5 draft LOI), and
 - b. the protected act for the victimisation claim (para.2 draft LOI). That is to identify the act or communication that the claimant says gave him a protected quality for his victimisation complaint.

I am satisfied that it was or should have been clear to the claimant from the respondent's email what he had to do.

6. The claim form is very brief. None of the boxes in Box 8.1 are ticked but Mr N'Dow for the claimant indicated that he was "making another type of claim which the Employment Tribunal can deal with" and inserted "Harassment, Bullying, Victimisation, Unlawful suspension." Box 8.2 contains the following information about the claim:

"On 30/04/24, claimant received an email entailing constructive suspension from work with pay, pending further investigation, accused of allegations of,.... He was invited to a formal disciplinary hearing and investigation, ... followed by a disciplinary hearing on 31/05/24 The alleged acts were found to be unfounded and Claimant was asked to return to work, at or under, of or pertaining to causation of injury to his pride and dignity in breach of Employment Rights Act 1996, to be dilated upon in proceedings of this claim with further and better particulars to follow."

7. That is the entirety of the information in the claim form about the claim. Bullying is not a type of complaint in itself that the Tribunal can consider although acts which might fairly be described as bullying might be unlawful harassment, for example. The specific acts mentioned in the claim form are limited to suspension, investigation (the respondent states the meeting was on 8 May

2024) and a disciplinary hearing at which the claimant was apparently acquitted. The respondent states that the hearing was rearranged for the 11 June 2024 because the claimant had not received all of the evidence and was issued with a Final Written Warning. I read the claim form as including complaints of victimisation and harassment but there is insufficient factual detail in the claim form to amount to a complete allegation a complaint within the jurisdiction of the tribunal are alleged. There is no mention of what the claimant says causes him to be protected from victimisation and no mention of the protected characteristic relied on for the harassment claim.

8. Neither the claimant nor Mr N'Dow replied directly to the respondent. The Tribunal Order was sent to the parties on 22 August by which time the deadline for compliance had passed. The order of the tribunal reads (paragraph 2 on page 37):-

“On or before **5 August 2025** the Claimant shall provide to the Respondent’s solicitors the further information requested by them as set out in their draft list of issues so that the same may be completed and filed with the tribunal by no later than **19 August 2025.**”

9. So, to be clear, the claimant was to send the information to the respondent by 5 August, and the respondent would complete the list of issues and send it to the tribunal by 19 August. This was necessary so that the issues were clear before the final hearing which Judge Warren had listed to take place on 13 & 14 October 2025.
10. Neither the claimant nor his representative responded to that or complied with it. Obviously, the date had passed by the time the order was sent, but they did not react to it by saying “Can we have some more time because we have only just received the order”, for example.
11. The respondent chased compliance on 19 August and then on 28 August wrote asking for the claim to be struck out for non-compliance with the order. In that application at page 42, the passage in the order that they were relying on was quoted. They also quoted Judge Warren’s reasons for making the order, namely (paragraphs 9 and 10 page 36):

Mr Desouza’s claim is not understood. An email was provided by Mr N’dow dated 2 May 2025 but its contents are incomprehensible. Set out below is an order for Mr Desouza to provide further information in relation to his claim. He will have a draft List of Issues from the Respondent’s solicitor which will illustrate for him why it is that we need this information. Mr Desouza should understand that the List of Issues is to assist the tribunal.

Given today’s events I stressed to Mr Desouza and Mr N’dow that if he failed to comply with the order for further information that may result in his claim being struck out.”

The reference there to today’s events seems to be a reference to the non-attendance by the claimant despite having been given notice of the hearing.

12. The claimant, through Mr N'Dow, replied quickly to that saying on 29 August that the claimant had provided comprehensive documentation to the respondent’s solicitor, by way of disclosure. Indeed, Ms Hughes in her email of 28 August in the final bullet point did acknowledge that the claimant’s representative had

provided disclosure of documents but none of the information required in the list of issues. She stated that it was not possible for the case to proceed without clarification of the claims and that was because the question of whether which protected characteristic the claimant relied on was fundamental to understanding whether the harassment complaint is within the jurisdiction of the tribunal or not. The claimant had not referred in the claim form to any communication by him or acts by him that would give him protection from victimisation under the Equality Act 2010. So, again, an essential component of that complaint had not been identified by the claimant. I accept that hampered the respondent's ability to prepare their response to the claim and to prepare for the final hearing to a significant degree. They did not know what they were accused of.

13. Mr N'Dow's reply on 29 August 2024 (on the Tribunal file but not in the preliminary hearing file), directing attention to the comprehensive documentation, did not in fact address the heart of the problem. It is difficult to understand but resists the application to strike out. It continues:

"An employee must not be made to "suffer" "detriment", and that is the case of our client at better clarity to perspective.

Our client has provided comprehensive documentations to the Respondent Solicitor in English, at disclosure for the joint bundle at hearing.

It will be opposed to justice and equity to grant Respondent's Solicitor's application assumed, at or under, of or pertaining to, quote:

"overriding objectives" under the guise of "proportionate to complexity" or "importance of the issues and saving expense", self-inflicted by conducts of subjecting a serving employee to "detriment" or "victimisation".

14. This merely states that there was detriment and it was victimisation but does not explain the facts which mean that such a claim falls within the remit of the Employment Tribunal and does not provide any further explanation of the harassment complaint at all.
15. It was responded to by Ms Hughes on 2 September and, again, she acknowledged receipt of the document but again explained why that was insufficient when there was no clarity about the claims themselves. At that point she explained why the respondent was not able to decide whether any of the disclosed documents were relevant and was therefore unable to comply with an order to provide a paginated hearing file. There was no response to that email, and the respondent wrote in like terms on 19 September highlighting the consequences of the continued breach which by that point were that they were unable to prepare witness statements which had been ordered to be exchanged on 23 September 2025 before the final hearing on 13 and 14 October 2025.
16. The 19 September 2025 email (page 44) continues:

"The final hearing is listed for 13 to 14 October and as the matter stands cannot go ahead as listed. At this late stage, the claimant's claims are still not understood and he is neither compliant with the case management order nor responded to our application below."

17. She asks for the matter to be referred to a Judge. Both the emails of 2 and 19

September were sent to both of the claimant and Mr N'Dow. No reply had been received from either of them to either 2 September or 19 September emails. The claim was referred to Employment Judge Warren who converted the final hearing to a three-hour preliminary hearing in public and released the respondent from their obligations under the case management orders to provide a hearing file and for the parties to exchange witness statements. The updated notice of hearing was sent to the parties on 24 September 2025.

18. Judge Warren directed that the hearing (which has been listed before me) should decide whether the claimant's case should be struck out for non-compliance with the tribunal orders and/or whether the claimant or his representative should be ordered to pay the respondent's costs. The effect of the claimant's non-compliance with the Tribunal order was that the final hearing date was lost because it was not possible for a fair hearing to take place on 13 & 14 October 2025 when the claims were not clear enough to respond to.

The law

19. The law that I apply in this area is first to look at the terms of what is now rule 38 of the Employment Tribunal Procedural Rules 2024 and the power to strike out for non-compliance with an order of the tribunal is subject to principles set out in previous cases.

“38.— Striking out

(1) At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds—

- (a) that it is scandalous or vexatious or has no reasonable prospect of success;
- (b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;
- (c) for non-compliance with any of these Rules or with an order of the Tribunal;
- (d) that it has not been actively pursued;
- (e) that the Tribunal considers that it is no longer possible to have a fair hearing in respect of the claim or response (or the part to be struck out).

(2) A claim or response may not be struck out unless the party in question has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.

20. The decision to strike out a claim under r.38 involves an exercise of discretion. Where the particular sub-rule which is said to be engaged is ru.38(1)(c) – non-compliance with an order of the Tribunal – relevant guidance is found in Weir Valves and Controls UK Ltd v Armitage [2004] ICR 371. The relevant passages of that are cited in page 23 para.47 of Bharaj v Santander UK Plc [2023] EAT 152 which was cited to me by Mr Nutman.

21. Mr Nutman argued on the basis of Mrs Justice Stacey's extensive quote from Weir Valves that

- a. in cases where the unreasonable conduct which the employment tribunal is considering involves *no* breach of a court order, the crucial and decisive question will generally be whether a fair trial of the issues is still possible (Weir Valves para.14).
- b. However, where there is a court order and there has been disobedience to it, the principles do not apply in the same way. "The Tribunal must be able to impose a sanction where there has been wilful disobedience to an order." (Weir Valves para.14)

22. The EAT in Weir Valves continued at paragraph 17 of their judgment:

"It does not follow that a striking out order or other sanction always be the result of disobedience to an order. The guiding consideration is the overriding objective. This requires justice to be done between the parties. The court should consider all the circumstances. It should consider the magnitude of the default, whether the default is the responsibility of the solicitor [*or representative as it is in this case*] or the party, what disruption, unfairness or prejudice has been caused and, still, whether a fair hearing is still possible. It should consider whether striking out or some lesser remedy would be an appropriate response to the disobedience.'

23. The overriding objective is to deal with cases fairly and justly which is further explained in r.3(2) of the ET Rules of Procedure 2024:

"3. Overriding objective

(2) Dealing with a case fairly and justly includes, so far as practicable—

- (a) ensuring that the parties are on an equal footing,
- (b) dealing with cases in ways which are proportionate to the complexity and importance of the issues,
- (c) avoiding unnecessary formality and seeking flexibility in the proceedings,
- (d) avoiding delay, so far as compatible with proper consideration of the issues, and
- (e) saving expense."

24. Mr Nutman relied on Weir Valves to argue that where there has been a failure to comply with the Tribunal order, it was not a bar to strike out that a fair trial was still possible. He pointed to the decision in Bharaj where the Employment Judge had concluded that the claimant had deliberately chosen not to exchange her witness statement, had correctly concluded that a fair trial was not possible within the trial window (described by Stacey J as the correct question) and, on the facts in that case, correctly concluded that the decision to strike out was proportionate. He also relied on Essombe v Nandos Chickenland Ltd. UKEAT/0550/06 arguing that, as in that case, the present involved deliberate disobedience and no less sanction to strike out would maintain fairness between the parties.

Discussion and Conclusion

25. I accept that the order was not complied with, as indeed the claimant accepted in terms, he says simply that the information is available elsewhere.
26. I go through the different categories set out in para.17 of Weir Valves in turn. The respondent argues that the magnitude of the default is significant because it argues there has been no attempt to comply with paragraph 2.
27. In terms of what the default is, the claimant accepts that no document in which the answers to the questions highlighted in yellow in the list of issues. However, he argued that the answers could be gleaned from the schedule of loss that he had provided and the documentation provided in response to the order for disclosure of documents. The fact that the schedule of loss was provided and that the claimant complied with the order to disclose documents, does indicate that the claimant and/or his representative read the correspondence of the respondent and/or the Tribunal order and identified that action was required of the claimant. That makes it difficult to understand why there has not been any attempt at all to comply with paragraph 2 of Judge Warren's order.
28. It is undoubtedly unhelpful, unsatisfactory and a failure to comply with the litigant's responsibility to assist the Tribunal for the claimant apparently to have chosen which parts of the Judge's order to comply with. Nevertheless, the claimant is not legally qualified and neither is Mr N'Dow – although the respondent stated that Mr N'Dow has other experience as a law rep.
29. He argues that the answers can be gleaned from disclosure of documents which he says took place on 21 August or from his schedule of loss which he provided on 15 July. I have looked at the schedule of loss. The documents in the case were not relevant for today's hearing.
30. The schedule of loss sets out five particular heads of claim that are said to give rise to compensation.
 - a. The first is victimisation and this states: "Victimisation in relation to raising grievances and being treated unfairly afterwards." As far as I can see that is the first occasion on which the claimant indicated that his grievance was a protected act within s.27 EQA.
 - b. I was told in the hearing that it had been made by email on 16 May 2024. The respondent does not refer to any grievance in their grounds of response which is unsurprising. He told me at the hearing that it was a grievance against a manager alleging discrimination. It was not stated that way in the schedule of loss, and the grievance is not mentioned at all in the claim form. The claimant accepted that the grievance was not mentioned in the claim form.
 - c. The third head in the schedule of loss is harassment. However, nowhere in the schedule of loss is the protected characteristic that is allegedly relied on for the harassment complaint referred to, and a discussion today did not lead to any further clarity about why the harassment complaint might fall within the Equality Act 2010 rather than be something he could complain about by way of grievance.
 - d. The other acts listed in the schedule of loss are "constructive suspension" and unspecified detrimental treatment; defamation/false allegation (but no

basis for this being a complaint within the EQA is explained); general financial costs. The total sum claimed is £55,300. These do not go any further to explain the claim.

31. I spent time during the hearing to try to understand why the claimant (or his representative) had failed to reply to the respondent's emails of 14 July 2025 (informing him of the order made in his absence), 19 August 2025 (chasing compliance), the order of the Tribunal and the respondent's emails of 2 and 19 September 2025 – and why his reply to the application did not simply provide the further information directed. The claimant's only response was that he had emailed all of the documents and complied with the orders. However it is clear that he had not. Mr N'Dow on his behalf said that they had not answered the questions because "we were waiting for the case to be heard".
32. I also spent time trying to understand what the claimant's answers to the questions were. When asked what the protected characteristic was and where that was shown in the Schedule of Loss, Mr N'Dow's answer for the claimant was that it was "in relation to raising grievances and being treated unfairly afterwards". That is not an explanation why the harassment complaint is one the Tribunal can consider. He contended that the Tribunal had jurisdiction because they had accepted the claim and that meant that what should happen was that at the hearing the Tribunal should open the whole of the case and go into the case; that "when we hear the case in full we will hear it all". That is incorrect; the Tribunal frequently accepts complaints and gives litigants an opportunity to explain why the subject matter of the complaint is within its jurisdiction rather than rejecting the claim and that is what happened in the present case.
33. I did not regard these as satisfactory explanations of the claimant's failure to answer the questions asked or for his failure to reply to some of the correspondence. I reached the conclusion that both the correspondence and the discussion in the hearing led to a stalemate which meant that I had very little more information about how the claimant argues there are complaints within the Tribunal's jurisdiction than did Judge Warren at the hearing when the claimant was absent.
34. Furthermore, the date the claimant gave for his suspension predated that given orally for his grievance. Therefore the additional information I had did not provide substantive answers to the questions asked. It raised more questions about clarification of the claimant than it answers. This is not a question of whether the claimant would be likely to succeed in a victimisation claim or whether an amendment would be needed to the claim form to advance such a claim. It is unlikely to be proportionate to strike out a claim which can fairly be tried simply because the claimant needs first to have an application to amend considered.
35. At the root of this, the claimant has not explained why the subject matter of his claim falls within the jurisdiction of the employment tribunal. Why should the respondent's time, and, indeed, employment tribunal time, be spent going to a final hearing when the claimant has not explained either orally or in writing why his claim is within the jurisdiction of the tribunal. The information that was missing was necessary to understand why this claim falls within the jurisdiction of the employment tribunal at all but also so that the respondent can understand what the grounds for their actions is said to be so that they can respond to the complaint.

36. I accept that the magnitude of the default is, in the context of the issues in the case, substantial because of the consequences to the litigation that failure to provide the ordered particulars has had.
37. I have to go on to consider whether strike out is a proportionate response bearing in mind that it is a Draconian step to take. It removes from the claimant the ability to have a determination on the merits of a case that he has brought to the Employment Tribunal. It is for the respondent to persuade me of the merits of their application which is brought on the basis of non-compliance and not on the basis of no reasonable prospects of success. I need to avoid the risk that I am influenced by considerations of the merits or lack of merit of the complaints. As it is a Draconian step, it is rare that it will be proportionate to strike out a claim and other forms of case management should usually be considered as alternatives to strike out before concluding that strike out is the only proportionate response.
38. The claimant was copied into the correspondence sent by the respondent from 14 July onwards. Therefore, the claimant himself was aware of what the orders were, that the respondent said that he had not complied with them and that the substance of the information had not been provided. I therefore do not draw any distinction between actions of the claimant himself or his nominated representative, Mr N'Dow.
39. Mr N'Dow argued that the respondent is simply seeking to avoid a full hearing, and it is not a reasonable reading of the correspondence that the claimant has avoided answering the information.
40. When deciding whether strikeout is a proportionate response or not, I do need to make sure that the decision is made in accordance with the overriding objective and that means dealing with cases fairly and justly including, so far as practicable, ensuring the parties are on an equal footing, dealing with cases in a way which is proportionate to the complexity and importance of the issues, avoiding unnecessary formality, seeking flexibility in the proceedings, avoiding delay, and saving expense.
41. I am driven to the conclusion that the claimant and/or Mr N'Dow have chosen not to reply directly to the questions asked. I say that because the answers that have been provided to my questions today about why the claimant did not respond to the order of Judge Warren was simply to say that the claimant seeks a fair trial, has suffered detriment, that the matters are clear in the ET1, and the information is in the schedule of loss. The reality is that minimal further information has been provided and that provided does not provide necessary clarity about the complaints that the case covers. There was no clarity in the ET1 and that is why the order was made in the first place. The discussion in the hearing when I tried to obtain the answers orally became very circular and did not elucidate.
42. The claimant appears to think that he can provide documentation that he says is relevant to the case and that the employment tribunal can find out from looking at that what the case is about. But that is not how litigation is conducted in the Employment Tribunal. The parties are not on an equal footing if that is how one party behaves. As Ms Hughes explains in her letter, if she does not know what the allegations are against the respondent how does she know which documents are relevant from the respondent's side or which documents should be put in the

hearing file. There was nothing in the claim form to suggest to her that the grievances would be relevant, for example, and that is why the claimant was ordered to explain the allegations that he makes.

43. When the claimant and Mr N'Dow argued, as they did before me, that he complains of harassment on grounds of being treated unfairly in the employment, and that that is the protected characteristic, that is not an explanation that falls within the Equality Act 2010. It is a circular argument. The EQA outlaws harassment related to protected characteristics such as sex, sexual orientation, disability, age, race, and, religion or belief. It does not simply outlaw conduct which passes the harassment test if it is unrelated to one of the protected characteristics. There can be matters that take place in the workplace that an employee considers unfair or wrong in a colloquial sense, and about which they can bring an internal grievance. That does not mean they are unlawful, or potentially unlawful, so that the employment tribunal has the jurisdiction to look at them, and the claimant has not explained why his case has the potential to do that. The limited further information about the victimisation complaint does not effectively answer the question, as I have explained.
44. The disruption that that has caused is that, as a consequence of the respondent drawing attention to the absence of clarity, the final hearing was converted to a preliminary hearing in public. That two-day final hearing has been postponed. Delay to resolution of the matters has been caused. Costs to the employment tribunal, and a disproportionate amount of time spent on the case which is a disadvantage looking at the limited amount of resources that the employment tribunal has a whole.
45. I go on to consider whether a fair hearing is still possible. As is sometimes said, it is often possible to say that a fair hearing at some point in the future is possible, if the parties wait long enough. The respondent does not allege that there are relevant witnesses who are no longer available, for example. However, that decision was already made effectively by Employment Judge Warren, that the absence of clarity, the inability of the parties to prepare witness statements because of the absence of clarity, meant that a fair trial on 13 and 14 October 2025 was not possible. That is why the final hearing was postponed.
46. That is not the same as the question about whether a fair hearing is not possible in the future. However, the claimant has been unable or unwilling to explain why some of the matters he is relying on fall within the jurisdiction of the tribunal at all. I am mindful that the claimant and Mr N'Dow are not lawyers. However, I am satisfied that both through the respondent's correspondence, Judge Warren's orders and my explanations today, it has been made clear to the claimant and Mr N'Dow what further information is needed and why. They persist in saying that they have given all necessary information for a fair hearing to the Tribunal (when the claimant has not) and that what is needed is for everything to be opened up when the case is opened – which I understood to mean in the final hearing. This I conclude is a deliberate choice not to answer the question about the basis of the harassment complaint. It is not in accordance with the overriding objective for the claimant to conduct litigation in that way.
47. It is quite possible for a litigant in person to say in layman's terms what the allegations are that they are making. It is important that they do that because at its heart litigation in the employment tribunal is adversarial. It is not for the

employment tribunal to investigate the circumstances and see whether it was unlawful. If matters proceeded in the way that the claimant argued, and still argues should be done, the respondent will not be on an equal footing because they risk coming to any further final hearing and being taken by surprise by the way that the claimant argues his case.

48. It is not simply a question of the claimant not understanding what he was asked to do because when talking it through today, I asked for an explanation as to why it had not been done, the claimant and his representative insisted that enough information had been provided. I think that there is a real risk that there would not be a fair hearing at any time given that stance. That affects my judgment on whether a lesser sanction could be imposed.
49. On 2 and 19 September the respondent's solicitors explained the consequences of the claimant's failure, which was their inability to understand the claim that their client had to meet. They might have read across from the schedule of loss that the victimisation claim was based on grievances, but it referred to unidentified grievances in the plural and the claimant did not explain why he could not simply answer the question that he was asked. Furthermore, the information is still incomplete. Furthermore, identifying a grievance as a protected act which postdates two of the matters complained of makes that explanation of the victimisation complaint completely illogical.
50. I have concluded that the claimant and Mr N'Dow had not engaged with what they had to do. The only answer to my probing that they gave was that, if the case was opened up, you will see what the employee has suffered. Regrettably, I have no confidence that, simply asking more questions, or repeating the order, perhaps with an unless order on it, would make any difference. I have concluded that the claimant and his representative do not accept that it is legitimate to order them to answer the questions before the final hearing. The claimant appears to think that what he has done is sufficient when he has not complied with the order and reasonable attempts have been made to explain what was needed.
51. The final hearing could be relisted but why should the respondent and the employment tribunal have to have a further final hearing when despite the application for strike out and my attempts in this hearing the claimant is unwilling to provide the clarification needed?
52. One thing I considered was whether it was possible to allow the victimisation complaint to proceed in the narrow way that it is now understood. But the answer given is illogical and amounts to next to no answer at all. I also think that is not proportionate to take that course because one final hearing has already been lost and that has caused cost. To list another which is likely to be equally ineffective would impact other users. There was no explanation, certainly no good explanation, for the failure by the claimant to respond at all to 2 September and 19 September emails. If, at that stage, before the decision was taken on 24 September to convert the final hearing to a preliminary hearing, he had said that the victimisation claim is based on my grievance of 16 May 2024 and explained why or said "I am ready to exchange witness statements as directed, why does the respondent say that the hearing cannot go ahead?" then that might have provided a different perspective to the Employment Judge.
53. There was no response at all and there is no sense that the claimant, or his

representative, accept that is their responsibility to set out the allegations. We are already 18 months after the events in question and the allegations are only marginally clearer than they were when the complaint started. That must effect the ability of relevant witnesses to recall events. I have a reasonable fear that any lesser sanction would not demonstrate the level of responsibility the claimant bears for this and would lead to a repeat situation in some months in the future.

54. For that reason, I think it is proportionate to strike out the claim, notwithstanding the fact that it is a Draconian step to take, particularly when consider complaints under the Equality Act 2010 where there is a public interest in there being a determination on the merits.

Approved by:

Employment Judge George

30 November 2025

JUDGMENT SENT TO THE PARTIES ON

3 December 2025

FOR THE TRIBUNAL OFFICE

Notes

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/