



EMPLOYMENT TRIBUNALS

Claimant: R Harry

Respondent: Halfords Autocentre

Heard at: London South via CVP

On: 16 September 2025

Before: Employment Judge D Wright (sitting alone)

Representation

Claimant: Mr. David Coote, lay representative

Respondent: Mr. R Ford, solicitor

JUDGMENT

1. The claimant has failed to comply with the Tribunal's orders and the claim is struck out under Rule 38(1)(c).
2. The claim has not been actively pursued and is struck out under Rule 38(1)(d) of the Employment Tribunal Procedure Rules 2024.
3. The respondent's application to strike out the claim under Rule 38(1)(a) on the basis that the claim has no reasonable prospect of success is dismissed.

REASONS

4. My judgment in this matter was given on 16 September 2025 and promulgated by the Tribunal on 9 October 2025. The Claimant requested written reasons on 13 October 2025 which is in time.
5. The Respondent applied to strike out the Claimant's claim on a number of grounds under Rule 38(1).
 - a. Under 38(1)(c) for non-compliance with the rules or the orders of the tribunal,
 - b. Under 38(1)(d) on the basis that the claim is not being actively pursued,
 - c. and under 38(1)(e) on the basis that it is no longer possible to have a fair hearing.
6. In the alternative. Mr. Ford also applies to strike out the claim on the basis

of 38(1)(a) because it has no reasonable prospects of success.

7. This is a claim which has had a troubled start. The Tribunal initially received the claim form in November 2024, although I accept that the respondent did not receive the ET1.
8. A "Rule 22 letter" was then sent out asking the claimant for additional information, and it was only at this point that the respondent became aware of the claim.
9. It then took another two months or so for the respondent to actually receive a copy of the ET1, and they responded with an ET3 two weeks thereafter. By this point, all of the directions in notice of hearing had passed, but these directions were very clear, requiring the parties to provide documents to each other. It was sent with a notice of hearing, and I am satisfied that the claimant received this.
10. Within those directions the claimant was ordered, by 21 November 2024, to send to the respondent a document setting out how much compensation for lost earnings or other losses they were claiming.
11. By 5 December 2024, the claimant and the respondent were required to send each other copies of the documents they had which were relevant to the claim.
12. By 19 December 2024, the claimant and respondent were ordered to agree which documents were going to be used at the hearing.
13. By 2 January 2025 the claimant and respondent were required to exchange witness statements.
14. The respondent did not comply with these directions because they had all passed before the respondent had received the directions or ET3.
15. The claimant also did not comply with any of those directions. I accept that in the interim the Rule 22 letter had been sent out, but it did not say anywhere in that letter that these directions had been set aside. In this letter, the claimant was directed to provide information on his finances within 14 days so that the Tribunal could consider whether a judgment could be issued without a hearing.
16. The claimant did not provide this information or respond to this letter. The matter was then in abeyance with no action by the claimant until 5 August 2025 when the Tribunal sent out a pre-hearing checklist to both parties.
17. On 26 August 2025, following the failure of both parties to respond to this letter, a strike out warning was sent to both parties. The warning specifically highlighted that the claimant had not provided the financial details requested some seven months earlier, that neither had responded to the letter on 5 August, and queried if the claim was being actively pursued.
18. To his credit, the claimant did respond to the Tribunal on 27 August, providing the financial information and confirming his attendance at the hearing today, saying that a witness statement was ready to be submitted.

In breach of the Tribunal Rules, he failed to copy this letter to the respondent.

19. On 8 September 2025, in refusing an application to adjourn this final hearing, Employment Judge Burge warned the parties again about the possibility of the claim and/or the response being struck out for non-compliance.
20. On 10 September 2025, the respondent sent an email to the claimant requesting documents. The claimant responded to that email, acknowledging it, but did not provide the documents.
21. The respondent chased again the same day, and the claimant's response to that email was simply that he would see Mr. Ford at the hearing today. He did not provide the documents.
22. On 11 September 2025, the respondent again asked for the documents. The claimant sent the schedule of loss on 12 September 2025 but no other documents.
23. The respondent then proposed an exchange of documents and witness statements on 15 September 2025, the day before the hearing. The claimant's response to that request was to tell the respondent to ask ACAS for the documents.
24. The respondent then replied, explaining that it is not for ACAS to pass on documents for the claimant. The correspondence between the parties continued with the respondent chasing the claimant, but getting nothing.
25. On 15 September 2025, the respondent provided a bundle and witness statements, and even then, the claimant did not provide his witness statement or any additional documents to the respondent.
26. Through his representative, the claim told me that he only found out the day before the hearing that ACAS do not provide documents. I do not accept that. At the very least, he was told on 12 September 2025 by the respondent, which is not the day before the hearing, that ACAS do not provide these documents.
27. I do not accept that Acas would ever have told Mr. Harry that they would be an intermediary passing on documents, nor have I seen evidence whereby they gave that impression.
28. I also find that the Tribunal orders that were sent out in October of 2024 very clearly say that the claimant is to send these documents to the respondent, they do not say that he is to send them to ACAS to pass on to the respondent.
29. But even if I were to give Mr. Harry the benefit of the doubt, and accept that he only discovered his innocent misunderstanding the day before the hearing, he still chose not to provide the witness statement then.
30. At that point, his conduct of the proceedings becomes indefensible. The claimant, by his own admission, was aware that ACAS is not the

intermediary for documents, and still did not send his evidence or statement, even though he had received the respondents' documents.

31. As such, I find that the claimant has completely and utterly failed to comply with the orders of the Tribunal.
32. Furthermore, I find that he has not actively pursued his claim. He has required multiple chasers from both the Tribunal and the respondent to get him to do anything to advance his claim.
33. In light of the fact that the documents still have not been provided, I also find that it is not possible for there to be a fair hearing within the current window.
34. Those findings then open the gateway to the claim being struck out. It does not automatically mean that I must strike out the claim. I remind myself that at this point the gateway has been opened, but I do not automatically need to step through it.
35. I have to consider the proportionality of whether to strike the claim out. As I have said, it is no longer possible for a fair hearing within the current listing window, and so if I did not strike out the claim, the listed two-day hearing will have to be adjourned, and relisted at a future date.
36. The Employment Tribunal is under significant strain at the moment, with a backlog of some fifty or sixty thousand cases. We are listing cases with a large delay, in some instances into 2029.
37. I accept that this case would not go that far. Being a two-day hearing, it is likely that we would be listing a real a reconvened hearing in late 2026 or 2027, but two days have been set aside for this case at a significant cost to the taxpayer. We would then have to set aside another two days for a relisted hearing, and that would impact on other users of the Tribunal who would be unable to make use of that listing slot.
38. I also, when making my decision on proportionality, considered, the overriding objective in the Employment Tribunal Procedure Rules. This requires the Tribunal to deal with cases fairly and justly,
39. 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 and;
 - e. saving expense.
40. I have already referred to the costs to the public purse and other Tribunal users. If adjourned to a later date there would also be additional costs to the respondent. The respondent has already incurred costs in chasing the claimant for documents that he refused to provide and instructing Mr. Ford to attend the hearing.

41. If I adjourned the hearing, then it is highly likely that any application for costs made by the respondent would be successful.
42. When I look at the schedule of loss, it is likely that those costs which may be awarded, would eat up any compensation that the claimant is likely to receive.
43. This is, in the grander scheme of things, a low value claim, albeit I accept that within the current cost of living crisis for an individual on a limited income, it is a large amount of money. But I repeat that in the grand scheme of things, this is a low value claim.
44. Mr. Ford submitted that there are no reasonable prospects to this claim. I do not accept that. There are certainly arguments that the claimant can make, but I do find that there are limited prospects of success. So, whilst I would not be prepared to strike the claim out on the basis of no reasonable prospects, I would certainly, if the matter proceeded, have entertain an application for a deposit order on the basis that there are little reasonable prospects of success.
45. I take on board the comments that Mr. Coot made about a potential culture at Halfords and the fact that it would be difficult to show the claimant was the person responsible for the work done, but on the evidence before me at the moment, I think the claimant is going to struggle with that argument.
46. I have to weigh all of those factors up when considering the impact on the parties. I also have to take into account the respondent's conduct in these proceedings, whilst the respondents initially were hamstrung in not receiving the ET3, and they did take all reasonable steps to get the ET1 early on and then provided a response within a reasonable timeframe, the respondent did also rather sit on their hands in the run up to these proceedings.
47. There were two applications to adjourn the hearing, and only when those were refused was any real effort made to get the defence up and running and to exchange evidence. But ultimately, the respondent has now stepped up. They pulled their finger out and prepared documentation and witness statements.
48. When I weigh up all of these factors in a balancing exercise alongside the overriding objective, I find that it is proportionate to strike out the claim on the basis that the claimant has not complied with tribunal orders, that he had not actively pursued his claim and that is no longer possible to have a fair hearing in the listing window.
49. As a side note, I did consider whether to also strike out the respondent's response, albeit that would largely be an academic exercise on the basis that the claimant's claim had been struck out, but because of their late engagement over the last week or so, I would have found that the test was not quite met there for striking out, albeit that the respondent was on very shaky ground.

Approved by

Employment Judge **D Wright**

Date 20 November 2025

Sent to Parties.
26 February 2026

Note

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

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