



EMPLOYMENT TRIBUNALS

Claimant: Mr D Taylor

Respondent: Capital Service Group Ltd

RECORD OF A PRELIMINARY HEARING

Heard at: Reading (CVP) **On:** 17 February 2026

Before: First Tier Tribunal Judge Davison sitting as an Employment Judge

Appearances

For the claimant: In Person

For the respondent: No attendance, or representation

JUDGMENT

1. The claimant's application to amend his claim to include a claim of constructive unfair dismissal is allowed.

Reasons

1. The relevant background to the application to amend the claim can be summarised as follows. On 27 February 2025 an ET1 was received. The claim centred upon unpaid wages and expenses. On 13 March 2025 an application was made to include constructive unfair dismissal. On 15 April 2025 the claimant was notified the claim had been sent to the respondent for a response. A response was received on 17 June 2025, this asserted the appellant was not employed. On 17 July 2025 the parties were informed the application to amend would be addressed at the Preliminary Hearing. On 20 September 2025 the respondent wrote to the Tribunal stating; 'Hi the company is in liquidation and has been since 22 July 2025.' Consideration was given to possibly striking out the response, but the matter was listed for Preliminary Hearing on today's date.
2. In the case of *Selkent Bus Company Limited v Moore* [1996] ICR 836 the Employment Appeal Tribunal ("EAT") set out the test to be applied by a Tribunal in deciding whether to exercise its discretion to grant an amendment. It said the Tribunal should take into account all the circumstances and should balance the injustice and hardship of allowing the amendment against the injustice and hardship of refusing it. The EAT in *Selkent* also set out a list of factors which

are certainly relevant, which are usually referred to as the “Selkent factors”. In brief they are:

- (1) The nature of the amendment i.e. whether the amendment sought is one of the minor matters or is a substantive alteration pleading a new cause of action;
 - (2) The applicability of time limits. If a new complaint of cause of action is proposed to be added by way of amendment it is essential for the Tribunal to consider whether that complaint is out of time and if so whether the time limit should be extended; and
 - (3) The timing and manner of the application. An application should not be refused solely because there has been a delay in making it. There are no time limits laid down in the rules for making amendments, but delay is a discretionary factor. It is relevant to consider why the application was not made earlier and why it is now being made (for example the discovery of new facts or new information).
3. In the case of *Vaughan v Modality Partnership* UKEAT/0147/20/BA the EAT reminded parties and Tribunals that the core test in considering applications to amend is the balance of injustice and hardship in allowing or refusing the application. The exercise starts with the parties making submissions on the specific practical consequences of allowing or refusing the amendment. That balancing exercise is fundamental. The Selkent factors should not be treated as if they are a list to be checked off.
 4. The issue of amendment applications was more recently discussed in *CX v Secretary of State for Justice* [2025] EAT 114.
 5. All the above guidance has been considered in assessing this application. Analysis of the practical impact of granting or refusing the application must be undertaken. In determining whether to grant an application to amend, an employment tribunal must always carry out a careful balancing exercise of all the relevant factors, having regard to the interests of justice and to the relative hardship that would be caused to the parties by granting or refusing the amendment.
 6. The hardship and injustice test is a balancing exercise. Lady Smith noted in *Trimble and anor v North Lanarkshire Council and anor* EATS 0048/12 that it is inevitable that each party will point to there being a downside for them if the proposed amendment is allowed or not allowed.
 7. I have considered the original ET 1 claim form and the documents provided in support of the application to amend.
 8. The Presidential Guidance on General Case Management for England and Wales notes the *Selkent* provisions are not intended to be an exhaustive list. There may thus be additional factors to consider in any particular case (*Conteh v First Security Guards Ltd* EAT 0144/16).

9. I have therefore considered all matters advanced including the *Selkent* provisions. There is no real hardship caused to the respondent or prejudice if the application were to be granted. The application was made prior to the respondent's consideration and response. The application was made shortly before the claimant resigned from employment on the grounds of an irrevocable break down in the working relationship and breach of contract, which in the letter of resignation (dated 23 March 2025) the claimant states constitutes 'constructive dismissal.' Having considered the nature and timing of the application and the potential injustice and hardship that would be caused by allowing the amendment I grant the application.
10. The application to amend is therefore allowed.

First Tier Tribunal Judge
Davison sitting as an
Employment Judge

17 February 2026

Sent to the parties on:

.....26 February 2026.....

For the Tribunal Office:

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