



EMPLOYMENT TRIBUNALS

Claimant: Mr J Abdulla

Respondent: Royal Mail Group Limited

Heard at: Reading (in private by Cloud Video Platform) **On:** 15 January 2026

Before: Employment Judge Chudleigh

Appearances

For the claimant: in person

For the respondent: Ms S. Marten, solicitor

REASONS FOR THE JUDGMENT SENT TO THE PARTIES ON 10 MARCH 2026

1. The claimant was employed by the respondent as an Operational Postal Grade, from 03 December 2012 until 23 May 2023 when he was dismissed.
2. This is the claimant's second claim. His first claim – case number 3309413/2023 – was presented on 2 August 2023 ("the First Claim") and was heard over six days on 24 to 28 February and 3 March 2025.
3. The claimant presented this claim on 21 May 2024 ("the Second Claim"). The Second Claim relates to matters arising during the course of his employment and to his dismissal.
4. The complaints in the First Claim were unfair dismissal, direct race discrimination, a failure to make reasonable adjustments and harassment related to race and disability. Further, although the list of issues for that claim did not specify a claim under section 15 Equality Act 2010 (EqA) is clear from paragraph 13 of the Reasons, that the Tribunal that heard the First Claim included the issue of whether the dismissal was unfavourable treatment for something arising from disability under section 15 EqA in its determinations.
5. All claims determined in the First Claim were dismissed including the claim under section 15 EqA – see paragraphs 341 to 347 of the Reasons and in particular, the following:

“345. Neither the dismissal, nor the decision to reject his appeal, was because of something arising in consequence of his disability.

346. Thus the complaint that his dismissal was disability discrimination within the definition in section 15 EQA fails and is dismissed.

347. For completeness, although the list of issues was clarified on Day 1, we are able to make a decision on whether the dismissal was less favourable treatment because of disability. We are satisfied that Mr Smart’s and Ms Tebbutt’s decisions were, in no sense whatsoever, motivated by any of the Claimant’s disabilities, either consciously or unconsciously. The reason that the Claimant was dismissed was because each of them believed that he had fraudulently amended a leave form so that he could take time off in December that would not have been authorised had he requested it. On the Claimant’s own account, the time off was so that he could get his car fixed, and was not connected to his health.”

6. In the Second Claim, the claimant makes complaints of unfair dismissal, wrongful dismissal, discrimination arising from disability, a failure to make reasonable adjustments and harassment related to race and disability. All matters relate to the currency of the claimant’s employment and its termination. The claimant also brings a complaint relating to an unlawful deduction of wages. Such a claim had also been brought in the First Claim but was struck out at a public preliminary hearing on 4 June 2024 as being out of time.
7. For the purpose of the hearing on 15 January 2026, the claimant presented a proposed amended particulars of claim in which the proposed ground of claim was under section 15 EqA and which concerned the dismissal. The claim was put as follows:

“3.1. The "Something Arising" (§15(1)(a)):

The Claimant suffered the following in consequence of his disabilities:

Cognitive Impairment ("Brain Fog"): The Claimant suffered from significant "brain fog," confusion, and diminished concentration arising from Long Covid and depression.

Disability-Related Absence: The Claimant experienced extensive sickness absences coinciding with the dismissal date and the preceding weeks.

3.2. Unfavourable Treatment: The Respondent treated the Claimant unfavourably by dismissing him on 24 May 2023.

3.3. The Causal Link: The Claimant contends that the "conduct" leading to dismissal—specifically the alleged alteration of a leave form—was not an act of bad faith, but a direct result of cognitive confusion and brain fog caused by his disabilities. Furthermore, the decision to dismiss was influenced by the Claimant’s record of disability-related absence.”

8. This hearing was listed to determine whether, in light of claim number 3309413/2023, the Second Claim should be struck out.
9. The claimant stated at the hearing that he was not pursuing the new unfair dismissal claim, but he was pursuing the wrongful dismissal claim. He also said that the proposed amended particular of claim contained all the claims he wished to advance. He pointed out that during the hearing of the First Claim it was acknowledged that the Second

Claim would be heard. Further, he said that during the hearing of the First Claim new evidence had come to light and that the Tribunal had acknowledged that there had been procedural errors and it was in the interests of justice to allow his claims to proceed.

10. The respondent argued that the new claim was an abuse of process and pursuant to the rule in **Henderson v Henderson**, it should be struck out. It was pointed out by the respondent that the Tribunal has determined the section 15 EqA claim against the claimant. It was also submitted that the Tribunal had not acknowledged that the Second Claim could be heard, only that after the conclusion of the First Claim there would be a case management hearing to address the issue of whether it should be struck out – see paragraph 12 of the Reasons: “...it did not necessarily follow that the 2024 claim would proceed to a final hearing, because case management in that claim would include making decisions about whether any parts of the 2024 claim cannot proceed because they simply duplicate the 2023 claim, and/or for other reasons”.
11. The case of **Henderson v Henderson 1843 3 Hare 100** established the rule that parties to litigation must bring forward their whole case. They will not be permitted to bring fresh proceedings about a matter which could and should have been litigated in earlier proceedings, but was omitted through negligence, inadvertence or even accident.
12. Applying **Henderson v Henderson**, the House of Lords said in **Johnson v Gore Wood [2002] 2 A.C. 1**, p. 31:

“The underlying public interest is the same: that there should be finality in and that a party should not be twice vexed in the same matter. This public interest is reinforced by the current emphasis on efficiency and economy in the conduct of litigation, in the interests of the parties and the public as a whole. The bringing of a claim or the raising of a defence in later proceedings may, without more, amount to abuse if the court is satisfied (the onus being on the party alleging abuse) that the claim or defence should have been raised in the earlier proceedings if it was to be raised at all.”
13. In the more recent case of **Szucs v GreenSquare Accord Ltd [2024] EAT 160** this principle was applied by the EAT which held that an Employment Tribunal did not err in law in striking out a Claimant’s second claim as an abuse of process on the **Henderson v Henderson** principle where the Claimant had known about the second claim prior to the final hearing of the first claim. It was open to the Employment Tribunal to conclude that the second claim was an abuse of process because the claimant could and should have made an application to amend the first claim to include the second claim. That was so even though an amendment application might have been refused so that the claimant would then have had to bring the second claim separately.
14. The key issue in the present case is whether the claimant is, in all the circumstances, abusing the process of the court by seeking to raise an issue which was or could have been raised in the previous proceedings.
15. Some of the claimant’s new allegations are the same or very similar to those advanced in the first case. However, there are some differences. For example, the wrongful dismissal claim is new and the reasonable adjustments claim is put slightly differently. Claims that have been adjudicated upon already include the unfair dismissal claim and the claim under section 15 EqA regarding unfavourable treatment because of something arising from disability.

16. Given that there are no allegations in the Second Claim arising after the claimant's dismissal, it appear to me that this case falls squarely within the principle established in **Henderson v Henderson**. All matters the claimant complains about in the Second Claim could, and should, have been litigated in the First Claim. Further, most of the new claims were in fact adjudicated upon in the First Claim. The Second Claim is clear example of an abuse of process.
17. To the extent that the claims are new, I endeavoured to ascertain why the claim had not been brought before. The clearest example of a new claim is the wrongful dismissal claim in respect of which the claimant offered no explanation at all for the failure to bring it earlier and the fact remained that it could and should have been included in the earlier proceedings. Nor did the claimant provide any adequate reason why any of the other new allegations had not been advanced before.
18. In the circumstances, I decided that the claims in the Second Claim should all be struck out on the basis that they are an abuse of process as they were brought in claim number 3309413/2023 or they could and should have been included in that claim, which was heard and determined by an Employment Tribunal over six days on 24 to 28 February and 3 March 2025.
19. In making that decision, I have had regard to the proposed amended particulars of claim and considered the complaint contained in that draft as if it was part of the pleaded claim. It would not be appropriate to permit an amendment as the claim sought to be advanced had been determined in the First Claim or alternatively, the section 15 EqA claim regarding the dismissal could and should have been brought in the First Claim.

Approved by

Employment Judge Chudleigh

Date: 13 March 2026

JUDGMENT SENT TO THE PARTIES ON
18 March 2026
FOR THE TRIBUNAL OFFICE