



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant
MR M BARAN

AND

Respondent
BRAKE BROS LTD

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT: BRISTOL ON: 9TH / 10TH FEBRUARY 2026

EMPLOYMENT JUDGE MR P CADNEY
(SITTING ALONE)

MEMBERS:

APPEARANCES:-

FOR THE CLAIMANT:- IN PERSON

FOR THE RESPONDENT:- MR R LASSEY (COUNSEL)

JUDGMENT

The judgment of the tribunal is that:-

1. The claimant's claims are struck out pursuant to rules 38(1)(b) and (e) Employment Tribunal Rules of Procedure 2024.
2. The claimant is ordered to pay the respondents costs in the sum of £20,000

Reasons

1. The claimant submitted his claim on 12th April 2024. The case was listed today for final hearing for ten days, having been the subject of a number of preliminary and/or case management hearings.
2. In order to make this decision comprehensible I have set out the events of, and my decisions of day 1 and day 2 below. However before dealing with those events I have set out the final List of Issues, and a short chronology in case any reader wishes to understand the chronology and the issues. In addition I have set out the basis of what was intended to be a strike out application heard at the beginning of the hearing but which was overtaken by events.

History / Summary

3. The claimant submitted his claim on 12th April 2024. It came before EJ Livesey for a case management hearing on 28th November 2024. He ordered a further PH on 21st March 2025. That was heard by EJ Midgely who directed a further PH on 22/23 October 2025 which was heard by EJ Beever. A final ADR hearing was heard on 9th January 2026 by EJ Woodhead.
4. By the conclusion of the process the following had been identified :
 - i) The claimant was at the material times a disabled person by reason of the physical impairment of wrist and elbow symptoms (EJ Beever 22/23 October 2025)
 - ii) Claims of wrongful dismissal; whistleblowing, and one of the allegations of direct discrimination were struck out (EJ Beever 22/23 October 2025)
 - iii) The final List of Issues (as amended from EJ Midgely's original list following the hearing before EJ Beever is as set out below)
5. The following were the claims and issues to be determined at the final hearing (EJ Beever) :

1. Time limits

1.1 The claim form was presented on 12 April 2024. The Claimant commenced the Early Conciliation process with ACAS on 2 March 2024 (Day A). The Early Conciliation Certificate was issued on 6 March 2024 (Day B). Accordingly, any act or omission which took place before 9 January 2024 (which allows for any extension under the Early Conciliation provisions) is potentially out of time so that the Tribunal may not have jurisdiction to hear that complaint.

1.2 Were the discrimination and victimisation complaints made within the time

limit in section 123 of the Equality Act 2010? The Tribunal will decide:

1.2.1 Was the claim made to the Tribunal within three months (plus early conciliation extension) of the act or omission to which the complaint relates?

1.2.2 If not, was there conduct extending over a period?

1.2.3 If so, was the claim made to the Tribunal within three months (plus early conciliation extension) of the end of that period?

1.2.4 If not, were the claims made within a further period that the Tribunal thinks is just and equitable? The Tribunal will decide:

1.2.4.1 Why were the complaints not made to the Tribunal in time?

1.2.4.2 In any event, is it just and equitable in all the circumstances to extend time?

1.3 Were the unfair dismissal, unauthorised deductions, detriment complaints made within the time limit in sections 111, 48 and/or 23 of the Employment Rights Act 1996? The Tribunal will decide:

1.3.1 Was the claim made to the Tribunal within three months (plus early conciliation extension) of the effective date of termination and/or act complained of and/or date of payment of the wages from which the deduction was made?

1.3.2 If not, was there a series of similar acts or failures and was the claim made to the Tribunal within three months (plus early conciliation extension) of the last one?

1.3.3 If not, was there a series of deductions and was the claim made to the Tribunal within three months (plus early conciliation extension) of the last one?

1.3.4 If not, was it reasonably practicable for the claim to be made to the Tribunal within the time limit?

1.3.5 If it was not reasonably practicable for the claim to be made to the Tribunal within the time limit, was it made within a reasonable period?

2. Unfair dismissal

2.1 Was the Claimant dismissed?

2.2 What was the reason for dismissal? The Respondent asserts that it was a reason related to capability, which is a potentially fair reason for dismissal under s. 98 (2) of the Employment Rights Act 1996.

2.3 Did the Respondent act reasonably in all the circumstances in treating that as a sufficient reason to dismiss the Claimant? The Tribunal will usually decide, in particular, whether:

2.3.1 The Respondent genuinely believed the Claimant was no longer capable of performing their duties;

2.3.2 The Respondent adequately consulted the Claimant;

2.3.3 The Respondent carried out a reasonable investigation, including finding out about the up-to-date medical position;

2.3.4 Whether the Respondent could reasonably be expected to wait longer before dismissing the Claimant. The Claimant alleges that he was part way through his recovery and the Respondent ought to have waited to see what the end point was before taking its decision to dismiss;

2.3.5 Dismissal was within the range of reasonable responses.

2.4 Was the decision to dismiss a fair sanction, that is, was it within the range of reasonable responses open to a reasonable employer when faced with these facts?

2.5 Did the Respondent adopt a fair procedure?

2.6 If it did not use a fair procedure, would the Claimant have been fairly dismissed in any event and/or to what extent and when?

2.7 If the dismissal was unfair, did the Claimant contribute to the dismissal by culpable conduct? This requires the Respondent to prove, on the balance of probabilities, that the claimant actually committed the misconduct alleged.

3. Direct age, disability, sex, race and/or religion or belief discrimination (Equality Act 2010 section 13)

3.1 Did the Respondent do the following things:

3.1.1 Exposed him to disciplinary hearings in 2021 (see paragraph 5 of the letter of 30 January 2024); the Claimant claims that this occurred because of his Polish nationality;

3.1.2 Dismiss him; the Claimant alleges that he was dismissed on the grounds of disability and/or his age (he was then 40) and/or his sex that there were more men in managerial positions and he posed a threat to the managers above him because of his good driving record);

3.1.3 Dismiss his appeal; the Claimant alleges that his appeal was dismissed, at least in part, because he had included Bible extracts in his appeal letter of 30 January 2024 which he believes were not looked upon favourably.

3.2 Was that less favourable treatment?

3.2.1 The Tribunal will have to decide whether the Claimant was treated worse than someone else was treated. There must be no material difference between their circumstances and those of the Claimant. If there was nobody in the same circumstances as the claimant, the Tribunal will decide whether he was treated worse than someone else would have been treated.

3.2.2 The Claimant says he was treated worse than a hypothetical non-disabled comparator.

3.2.3 The claimant was unable to identify the age group with which he identifies or the age group which he compares his treatment to for the purposes of the age discrimination claim.

3.2.4 The claimant was unable to clarify whether he was relying on an actual or a hypothetical comparator for the purposes of the claims of sex, race or religion and belief.

3.3 If so, was it because of the protected characteristic?

3.4 Is the Respondent able to prove a reason for the treatment occurred for a non-discriminatory reason not connected to the protected characteristic?

4. Discrimination arising from disability (Equality Act 2010 section 15)

4.1 Did the Respondent treat the Claimant unfavourably by:

4.1.1 Dismissing him.

4.2 Did the following things arise in consequence of the Claimant's disability? The Claimant's case is that his absence from work and/or his inability to return to his full duties were as a result of his disabilities which caused him to be dismissed.

4.3 Was the unfavourable treatment because of any of those things?

4.4 Was the treatment a proportionate means of achieving a legitimate aim?
The respondent is yet to articulate its legitimate aim (see paragraph 49 of the Amended Grounds of Resistance).

4.5 Did the Respondent know or could it reasonably have been expected to know that the Claimant had the disability? From what date?

5. Reasonable Adjustments (Equality Act 2010 ss. 20 & 21)

5.1 Did the Respondent know or could it reasonably have been expected to know that the Claimant had the disability? From what date?

5.2A “PCP” is a provision, criterion or practice. Did the Respondent have the following PCPs:

5.2.1 The requirements of the Claimant’s role.

5.3 Did the PCPs put the Claimant at a substantial disadvantage compared to someone without the Claimant’s disability, in that he was not physically capable of undertaking his role due to his injuries?

5.4 Did the Respondent know or could it reasonably have been expected to know that the claimant was likely to be placed at the disadvantage?

5.5 What steps (the ‘adjustments’) could have been taken to avoid the disadvantage? The Claimant suggests:

5.5.1 Amending his role so as to avoid heavy manual duties, to include those tasks identified by OH (CCTV monitoring, visual inspection, light logistical or administrative work);

5.5.2 Offering him a role as a Health and Safety representative.

5.6 Was it reasonable for the Respondent to have to take those steps and when?

5.7 Did the Respondent fail to take those steps?

6. Harassment related to sex, race, disability, age and/or religion or belief (Equality Act 2010 s. 26)

6.1 In the alternative, were the matters set out in paragraph 3.1.1, 3.1.2 and 3.1.3 above acts of harassment?

6.1.1 Did they constitute unwanted conduct?

6.1.2 Did it relate to the Claimant's protected characteristics, as set out above?

6.1.3 Did the conduct have the purpose of violating the Claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the Claimant?

6.1.4 If not, did it have that effect? The Tribunal will take into account the Claimant's perception, the other circumstances of the case and whether it is reasonable for the conduct to have that effect.

7. Duplication of Harassment and Direct Discrimination

7.1 The claimant's complaints relating to disability, age, race, sex and/or religion or belief are presented as both harassment and/or direct discrimination. The tribunal will determine these allegations in the following manner.

7.2 In the first place the allegations will be considered as allegations of harassment. If any specific factual allegation is not proven, then it will be dismissed as an allegation of both harassment and direct discrimination.

7.3 If the factual allegation is proven, then the tribunal will apply the statutory test for harassment under section 26 EqA. If that allegation of harassment is made out, then it will be dismissed as an allegation of direct discrimination because under section 212 (1) EqA the definition of detriment does not include conduct which amounts to harassment.

7.4 If the factual allegation is proven, but the statutory test for harassment is not made out, the tribunal will then consider whether that allegation amounts to direct discrimination under the relevant statutory test.

8. Holiday Pay (Working Time Regulations 1998)

8.1 Did the Respondent fail to pay the Claimant for annual leave the claimant had accrued but not taken when their employment ended?

9. Unauthorised deductions (Part II of the Employment Rights Act 1996)

9.1 Did the Respondent make unauthorised deductions from the Claimant's wages and if so how much was deducted? The Claimant's complaint here is that he was not paid at the same rate during his sickness absence as he had been when he had been at work.

Allegations / Summary

6. It will be apparent from the List of Issues that these claims engage the following primary issues (in chronological order):
7. Disciplinary Hearings 2021 – Was the claimant's exposure to a disciplinary hearing in 2021:
 - i) Direct race discrimination and/or harassment (para 3.1.1)
8. Reasonable Adjustments – Should the respondent have made adjustments to the claimant's role which would have allowed his employment to continue (paras 5.5.1 / 2)
9. Dismissal – Was the claimant's dismissal:
 - i) Unfair (para 2 above);
 - ii) Direct discrimination and/or harassment (disability / age/ sex – para 3.1.2)
 - iii) Discrimination arising from disability (para 4.1.)
10. Dismissal of his appeal – Was the dismissal of his appeal:
 - i) An act of direct religion or belief discrimination and/or harassment (para 3.1.3)
11. Unlawful Deduction from wages / Unpaid Holiday Pay – Have there been any unlawful deduction from wages and/or the failure to pay holiday pay.

First Strike out application

12. Prior to the hearing the respondent had made an application to strike out the claim as set out below. It was directed that that application would be dealt with at the commencement of the hearing. Due to the events on the morning of the first day the respondent in fact made the application on a different basis, but for completeness sake the application the tribunal was intending to determine at the start of the hearing is set out below. I have set out the application and the basis for it, and a brief discussion of the issues, as in my judgement there was significant merit in the application, and even had I not acceded to it the limitations of the claimant's witness evidence would have made the pursuit of at least the discrimination claims extremely difficult in any event, as put simply, none of the witness evidence upon which the claimant seeks to rely makes any reference to any of the issues in the case.
13. The respondent made a strike out application as set out below, which essentially concerns the failure of the claimant to comply with directions for the provision and exchange of witness evidence, and it was directed by EJ Bax that it would be determined as a preliminary issue at the start of the hearing.
14. The first two Grounds relate to the failure of the claimant to comply with directions as to the provision of a witness statement. The respondent asserts that the directions with which the claimant has failed to comply are:

- i) EJ Midgely - para 46- 52 – 19th December 2025;
- ii) EJ Beever - para 21 – 19th December 2025;
- iii) EJ Woodhead - paras 12 – 23 as set out below – 19th January 2026 (Order 1) or 23rd January 2026 (Order 2):

15. EJ Woodhead's Case Management Order from the ADR Hearing identified a document supplied by the claimant as containing documents which, in the absence of the claimant complying with the earlier directions would stand as their witness statements (see Orders 1 and 2 below) and includes the following orders:

Orders

*21. The Claimant shall by **4pm on 19 January 2026** send to the Bristol Employment Tribunal.. and the respondents solicitors.... the final witness statements;*

Such final witness statements shall meet the requirements of EJ Beaver's case management orders (in the October RoPH) at paragraphs 15 – 19.....

*This Order is referred to as “**Order 1**”. For the avoidance of doubt, paragraphs 15-19 of the October RoPH read as follows:*

“15. The Claimant and the Respondent must prepare witness statements for use at the hearing. Everybody who is going to be a witness at the hearing, including the Claimant, needs a witness statement.

16. A witness statement is a document containing everything relevant the witness can tell the Tribunal. Witnesses will not be allowed to add to their statements unless the Tribunal agrees.

17. Witness statements should be typed if possible. They must have paragraph numbers and page numbers. They must set out events, usually in the order they happened. They should use sub-headings where possible, using the Issues, as set out at the end of this Order. If the witness statement refers to a document in the Existing File or the Supplementary file it should give the page number.

18. At the hearing, the Tribunal will read the witness statements. Witnesses may be asked questions about their statements by the other side and the Tribunal.

19. The statements must be limited in length as follows, unless any excess is no more than 5% of the total allowed, with the word count clearly shown at their end;

The Claimant – 8,000 words in total for his own statement and 2,000 words for each supporting witness;

The Respondents – 20,000 words in total on its stated intention to call 7-8 witnesses.”

22. If the Claimant does not comply with Order 1 (or does what is required by Order 1 but does so late) then:

*22.1 Pages 1-7 of **the CWS Document** shall stand as the Claimant’s witness statement for the Final Hearing.*

*22.2 Pages 8-12 of **the CWS Document** shall stand as the Claimant’s wife’s witness statement for the Final Hearing; and*

*22.3 By **4pm on 23 January 2025** the Claimant shall send to the Bristol Employment tribunal .. and the respondents solicitors clear copies (that can be easily read) of pages 1-12 of **the CWS Document**.*

*I refer to this as “**Order 2**”.*

23. In complying with Order 1 and Order 2 the Claimant shall only send documents to the emails above and not to any other email addresses.

16. The respondent asserts that the final position is that the claimant has failed to comply with either of the earlier orders, or Order 1 or Order 2 of EJ Woodhead’s final order to provide compliant witness statements and/or legible copies, and as a result asserted for the reasons set out in the application that the claims should be struck out.
17. For the reasons set out below this application was not dealt with and does not form any part of the basis on which the claim was finally struck out. However in my judgement the respondent is correct that the claimant had failed to comply with the earlier orders and either of EJ Woodhead’s orders; and that neither his nor his wife’s witness statements are addressed to, or provide any evidence in relation to the issues to be determined.
18. It follows that had the claim not been struck out for the reasons given below it would have been necessary to determine this application. Again for completeness sake, the respondent contended that:
- i) Those orders represent the third set of directions for the claimant to provide a witness statement and contain clear directions as to the contents of a witness statement;
 - ii) The claimant did not comply at all with the earlier orders, and has not complied with either Order 1 or Order 2 of EJ Woodhead’s directions;
 - iii) Whilst they have included in the witness statement bundle the versions of the “witness statements” as described EJ Woodhead he only in fact gave permission for the claimant to rely on them if further legible copies were provided (Order 2) which the claimant has not complied with;
 - iv) At present the claimant has not supplied any witness evidence in compliance with any of the orders and will need permission of the tribunal to rely on the witness statements such as they are;

- v) The compilation of the List of Issues and the provision of witness evidence are the two most basic steps in preparing for a final hearing. The first allows it to understand which issues it needs to address evidentially. The second allows it to understand the evidence in support of the allegations;
 - vi) The claimants evidence, such as it is, does not address any of the issues in the case, and it is therefore no further forward in understanding evidentially the case it has to meet.
19. It is not necessary to conduct a detailed analysis of the claimant's witness statements, but in short in my judgement of the respondent is clearly correct that neither his nor his wife's contain any evidence relevant to any issue in the case even tangentially.
20. It follows that had this application been reached the tribunal would have had three options:
- i) The tribunal could accede to the respondent's application to strike out the claim;
 - ii) The tribunal could reject the application, but refuse permission to the claimant to rely on any witness evidence, hear the evidence from the respondent and determine the claims;
 - iii) The tribunal could reject the application but to have given permission to the claimant to rely on the witness statements in their current state. If that means that there is no primary evidence from the claimant sufficient to satisfy stage 1 of the Igen v Wong test for the discrimination claims that is the result of the failure of the statements to engage with the issues.

Day 1

21. Interpreter – The claimant's English is good but not perfect, and it is not his first language. As a result it was directed that a Polish interpreter be booked for each day of the hearing. The tribunal attempted to obtain an interpreter to attend in person for the ten day hearing but this was not possible. The tribunal was able to obtain an interpreter who could attend via CVP and the hearing was converted to a hybrid hearing to accommodate this. The claimant stated initially that he had not been consulted about the interpreter attending remotely and did not give his consent. For reasons that are not clear the booked interpreter did not attend at 10.00 am , but another interpreter was found for the afternoon of day 1. However as is set out below the claimant did not attend in the afternoon. On day 2 the interpreter was present and the claimant indicated that he did not need everything interpreted, and it was agreed that the interpreter's services would be used at his request.
22. Hearing -. The claimant was assisted by his wife who was present in court with him, and whom he frequently consulted before answering questions or making points. As set out in the case management orders the first day was intended to be taken up with dealing with any preliminary matters and tribunal reading; and the first strike out application (as set out above). In fact the substantial part of the pre-reading had already been completed. However, it in fact proceeded in an extremely unusual fashion as set out below.

23. Although there was no interpreter present on the morning of Day1 the claimant was able to articulate very clearly and precisely (as is set out below) the requests / demands he made of the tribunal with which he required compliance before the hearing could proceed.
24. Claimant – One of the central features of the situation the tribunal found itself in is the claimant's perception of himself, the tribunal and respondent. At various points in the documentation and the hearing he described himself and/or the tribunal/respondent as:
- i) Third Party Interlopers – Both in correspondence and in the hearing itself the claimant referred to the respondent, the respondent's legal representatives, the Employment Judge and the tribunal as "third party interlopers". He appears to mean by this that any or all of them can only participate in the litigation / hearing with his consent and to the extent that he "contracts" with them. Insofar as it relates to the respondent in the hearing this meant that the respondent's counsel could only speak when given permission by the claimant and/or make an application approved by the claimant; and that any order or judgment from the tribunal to which he had not explicitly consented and with which he did not agree was a nullity and invalid without his consent and/or contractual agreement.
 - ii) A Leading Man – The claimant referred to himself frequently as a "Leading Man", by which he appears to mean that he is not simply an individual litigant bringing an individual claim, but is a representative of the people, on whose behalf the claim was being brought. When I pointed out that this claim simply involved a private law dispute to determine whether he had been unfairly dismissed and/or discriminated against in the various ways set out in the List of Issues (above), he disputed this saying that it had a much wider public importance. In particular he referred to his whistleblowing claims which, as he described them firstly appeared much wider than those originally brought in this claim; but secondly and in any event those claims had been struck out by EJ Beever at the Preliminary Hearing and there were no longer any whistleblowing claims before the tribunal. He did not accept this as he had not consented to the dismissal of those claims and/or not entered into a "contract" with the tribunal/EJ to do so as he sometimes put it.
 - iii) King's Ambassador – He stated that he was the King's Ambassador and answered only to the King and God.
 - iv) Higher Authority- Whether because he was a Leading Man and/or the King's Ambassador, that he was in control of proceedings, the "Higher Authority" as he described it, and that no decision or Judgment had any validity unless he consented to it. This was exemplified at the conclusion of the hearing when I explained that as the claims had been struck out and I had made the order for costs (as set out below); that the claims had come to an end and that he would receive the written judgment to together with information as to how to appeal if he wished to. He stated that the claims had not come to an end as he had not given his consent and/or contracted to do so and repeated that he was the "Higher Authority".

v) Freeman of the Land – He stated that he was a Freeman of the Land. This was only said once and the significance the claimant ascribes to this is not clear, although it may be the basis for his assertion that any decision of the tribunal is a nullity unless he consents to it.

vi) Messiah - Although it was not referred to by the claimant in the hearing, since the hearing but before the Judgment was promulgated the claimant has by an email dated 12th February 2026 asserted that he has been informally acting as a “Messiah” for some time, and demands that it be “approved and revealed to the world”. He enclosed two proofs of his position which were firstly a document in Polish which the tribunal has not been able to read; and a further document in part repeating the requirement that the EJ provide the documents set out below; repeating his claim for £1 million from the EJ / Court Service and/or the respondent and a number of other assertions.

Day 1 – 10.00 A.M. -

25. At the start of the hearing the claimant stated that he had a number of questions for the tribunal which he required answering before the case proceeded. The questions that he required an answer to were in fact the provision of documents from myself proving to his satisfaction that I was in fact an Employment Judge (as set out above he has repeated the request in subsequent correspondence). Those documents were:

- i) My “judicial licence”;
- ii) A signed certified copy of the judicial oath I had taken;
- iii) A document described by the claimant as a Registration as a Foreign Agent certificate/declaration;
- iv) My personal signed Anti-Bribery declaration.

26. I explained to the claimant that I could not provide those documents as they did not exist. Judges in England and Wales are not provided with “judicial licences”. There is a swearing in ceremony but judges are not issued with a signed certificated confirmation that the oath has been taken. A Registration as a Foreign Agent certificate/declaration and a personal Anti- Bribery declaration are not things I had ever heard of in the context of English law and were certainly not documents I possessed, and I could not provide them to him.

27. I asked the claimant where the information that judges of England and Wales had such documents came from, as the documents sounded as though they might exist in some other jurisdictions and/or states in the United States of America but he declined to answer. I asked him if he would be satisfied if I asked the REJ to come to the courtroom and confirm that I was indeed one of the South West Region’s salaried employment judges. The claimant indicated that that would not satisfy him and that only the provision of the documents themselves would be sufficient. I also asked the claimant on a number of occasions whether given that it was not possible to provide

- those documents, that he was refusing to participate in the hearing going forward. His answer was that he was not refusing, but that there were no proceedings unless and until he gave his consent, and his consent would not be given unless and until he was satisfied that I was an Employment Judge; and he could only be satisfied by my providing the documents. At one point he appeared to indicate that were I to provide a written signed witness statement that confirmed that I did not possess those documents and that they did not exist, that he would consider whether that would be sufficient. I declined in any event to provide a witness statement for him, and he reverted to his primary position that the case could not proceed, and that there were in fact no valid proceedings, until I had provided the documents.
28. In addition to the issue of the documents the claimant asserted that the case had been listed originally for hearing with a full panel of three, which was correct. I informed him that where it was not possible for the tribunal to obtain non-legal members for the hearing, that it was within the REJ's discretion to direct the hearing be heard by an Employment Judge sitting alone which is what had occurred. The claimant stated that that this decision was not valid as he had not consented to the case being heard by an Employment Judge sitting alone, and appeared not to accept at that the decision fell within the authority of the REJ unless he consented.
29. He further contended that he did not accept the decisions or directions/orders of previous EJs, particularly that of EJ Beever who had struck out amongst other claims the public interest disclosure claims. He stated that justice required that all of his claims be heard.
30. He further contended that the case could not go ahead because the CEO of the respondent or its parent company was not present to give evidence; and that he had required and continued to require him to attend and answer questions. I explained to the claimant that in tribunal litigation it is for each party to decide the witnesses it wished to call which it believes are relevant to the issues in the case. It was not open to the claimant to demand that the respondent call or make available for cross examination any witness other than those it wished to.
31. The discussions described above were lengthy and repetitive, and at their conclusion Mr Lassey on behalf of the respondent indicated that he proposed to make a strike out application. Whilst doing so he was constantly interrupted by the claimant who insisted that there were no valid proceedings, and that he did not give permission for the respondent to make any application. I indicated that we would adjourn until 2:00 pm and that at 2:00 pm the respondent could make its strike out application. The claimant stated that he proposed to adjourn until 10:00 the following morning and not 2:00 pm, in order to give me the opportunity to provide the documents he had requested. When I informed him that there was no purpose in adjourning until 10:00 the following day for me to provide those documents because they did not exist and I could not do so; and that the hearing would proceed to hear the respondent's strike out application at 2.00pm, the claimant informed me at that he had given an order that the case that would be adjourned until 10.00 am the next day.
32. By the end of the morning the hearing had reached the following position:

- i) The claimant would not accept that the tribunal was properly or validly constituted as I had not provided the documents referred to above, which was the only means by which I could prove to his satisfaction that I was a properly appointed Employment Judge and/or because he had not given his consent to the hearing being conducted by an Employment Judge sitting alone;
- ii) As a result he did not accept that there were any valid judicial proceedings and it followed that he was not obliged to accept any orders from the tribunal, and that he was entitled to give orders as to what would take place as he was the claimant; including as set out above refusing permission for Mr Lassey to speak on the respondent's behalf; and personally adjourning the proceedings until 10.0 am the following day. (In this context it should be noted that this is consistent with his repeated contention that the tribunal itself, the Employment Judges, the respondent's representatives are "third party interlopers" with whom he can chose to "contract" or not as he wishes. As set out above, as I understand it he means by this that case management orders and judgments of the tribunal are offers to "contract" which he can accept or not as he chooses).
- iii) He did not accept that the claims had been properly or fully identified and that in particular his whistleblowing claims should be heard, despite them being struck out by EJ Beever (Again it should be noted that in this context when the claimant asked me what the claims were, and I summarised those before the tribunal as set out in EJ Beever's CMO, he informed me that I was wrong and that I was "unprepared" as I didn't know what all his claims were. As set out above he did not appear to accept that any claims had been or could be struck out without his permission and insisted that they remained to be determined).
- iv) The case could not in any event proceed without the respondent's CEO, whose attendance he required.
- v) The case was not to proceed in the afternoon and had been adjourned until 10.00 am the following day at his direction. .

Day 1 - 2.00 PM.

- 33. When the hearing resumed at 2:00 pm neither the claimant nor his wife were present, and the respondent's witnesses stated that during the lunch break they had seen them getting on the bus.
- 34. The tribunal, as indicated above proceeded to hear the respondent's strike out application. It is put on a number of bases but the primary one is that the claimant's conduct this morning is unreasonable scandalous or vexatious within the meaning of rule 38 (1) (b); and that a fair hearing is no longer possible (rule 38(1) (e); and finally that only a strike out order is a proportionate sanction.
- 35. The respondent submits that there is absolutely no reasonable basis for the claimants assertion that he would refuse to participate in the hearing, or recognise

- that it had been validly constituted, unless and until he was provided with the documents that he demanded from the tribunal. Secondly having been informed that those documents do not exist and could not be provided, he maintained the requirement that they be provided to him and that he could not be required to participate in the proceedings until they had, necessarily constitutes unreasonable behaviour. This is bolstered by his express assertion that he was not bound by previous tribunal decisions, and to purport to require the tribunal to hear claims that had already been struck out. It is not open to the claimant simply to dispute the validity of the tribunal, its composition, or the proceedings; and then simply not reappear and participate in the hearing in the afternoon.
36. Put simply it is the claimant who has brought the claim and therefore necessarily does, or at least should, recognise the authority of the tribunal to determine this claims. To simultaneously bring claims before the tribunal, and at the same time assert that he is the "Higher Authority", and not bound by any orders / decisions of the tribunal in which he has brought his claims is on any analysis vexatious and/or unreasonable. This is not simply a theoretical complaint as to the claimant's conduct, but his expressed views led him to the position that he was entitled to interrupt the respondent's counsel and to attempt to forbid him from and prevent him from speaking; and to refuse to return in the afternoon.
37. That in my judgement is correct; the claimant's conduct during the first morning of the hearing was clearly unreasonable, and threshold for considering whether to make a strike out order has been met.
38. That leaves the questions of whether a fair trial is still possible, and/or whether a strike out order is a proportionate sanction. The respondent submits that both questions should be answered in its favour. There are essentially only two alternative options to the case being struck out. Firstly it could be postponed until 10.00 am tomorrow, but there is no purpose to in doing so as we would be in exactly the same position, as the claimant himself has stated. In addition the claimant has demonstrated by his behaviour that he is not prepared to permit the respondent's counsel to speak without his consent, which in and of itself means that a fair hearing is not possible even with assertive management by the tribunal, given the claimant's constant interruptions of the respondent. Secondly, simply postponing the hearing generally and re-listing is both unfair and unreasonable in and of itself when the respondent is ready for and has prepared for the hearing, and in any event meets with the same objection that there can be no reasonable expectation that the tribunal would not be in exactly the same position on any future occasion. Put simply the claimant has refused to recognise the validity of the proceedings, and has acted on that belief in his conduct and his failure to turn up to the afternoon hearing without explanation other than his own direction to adjourn the hearing; and there can be no reasonable expectation that any future hearing whether tomorrow or at some other time would not have exactly the same result. It follows that a fair trial whether now or at some later date is not possible.

39. It equally follows that if a fair trial is not now possible; and an adjournment would serve no useful purpose, that there is no reasonable alternative to striking out the claim, and a strike out order is necessarily proportionate.

Legal Principles

40. The power to make a strike out order is contained in Rule 38 (Employment Tribunal Procedure Rules 2024)

38.—(1) *The Tribunal may, on its own initiative or on the application of a party, strike out all or part of a claim, response or reply 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, response or reply (or the part to be struck out).*

41. The principles against which a strike out application should be considered are well known. In respect of applications under rule 38(1)(b), for a tribunal to strike out for unreasonable conduct, it must be satisfied either that the conduct involved deliberate and persistent disregard of required procedural steps or has made a fair trial impossible; and in either case, the striking out must be a proportionate response — *Blockbuster Entertainment Ltd v James* 2006 IRLR 630, CA.

42. In respect of the test as to whether a fair trial is still possible, which is an issue relevant to determining the application on either ground there are two specific relevant authorities. The first is *Emuemukuro v Croma Vigilant* [2021] UKEAT, and specifically para 19 of the judgment of Choudhury P. The second is *Smith v Tesco Stores* [2023] EAT 11. As the passage from Choudhury P's judgement is set out in the judgment of HHJ Tayler in *Smith v Tesco* I have only set out the relevant parts of that judgment below:

“33 It is always worth going back to the wording of the overriding objective. Rule 2 of the ET Rules provides: Overriding objective -

The overriding objective of these Rules is to enable Employment Tribunals to deal with cases fairly and justly. 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.

A Tribunal shall seek to give effect to the overriding objective in interpreting, or exercising any power given to it by, these Rules. The parties and their representatives shall assist the Tribunal to further the overriding objective and in particular shall co-operate generally with each other and with the Tribunal.

34. It is important to remember that parties are not merely requested to assist the employment tribunal in furthering the overriding objective, they are required to do so.

*35. Rule 37 of the **ET Rules** provides:*

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.

36. *The EAT and Court of Appeal have repeatedly emphasised the great care that should be taken before striking out a claim and that strike out of the whole claim is inappropriate if there is some proportionate sanction that may, for example, limit the claim or strike out only those claims that are misconceived or cannot be tried fairly.*

37. *Anxious consideration is required before an entire claim is struck out on the grounds that the manner in which the proceedings have been conducted by or on behalf of the claimant has been scandalous, unreasonable or vexatious and/or that it is no longer possible to have a fair hearing.*

38. *In **Bolch** Burton J considered the approach to be adopted in considering whether it is appropriate to strike out a claim because of scandalous, unreasonable or vexatious behaviour and concluded that the employment tribunal should ask itself: first, whether there has been scandalous, unreasonable or vexatious conduct of the proceedings; if so, second (save in very limited circumstances where there has been wilful, deliberate or contumelious disobedience of an order of the employment tribunal), whether a fair trial is no longer possible; if so, third, whether strike out would be a proportionate response to the conduct in question.*

39. *This approach was adopted by the Court of Appeal in **Blockbuster Entertainment Ltd v James**, [\[2006\] EWCA Civ 684](#), [2006] IRLR630, where Sedley LJ stated: This power, as the employment tribunal reminded itself, is a draconic power, not to be readily exercised. It comes into being if, as in the judgment of the tribunal had happened here, a party has been conducting its side of the proceedings unreasonably. The two cardinal conditions for its exercise are either that the unreasonable conduct has taken the form of deliberate and persistent disregard of required procedural steps, or that it has made a fair trial impossible. If these conditions are fulfilled, it becomes necessary to consider whether, even so, striking out is a proportionate response.*

40. *In considering proportionality the Court of Appeal noted:*

18. The first object of any system of justice is to get triable cases tried. There can be no doubt that among the allegations made by Mr James are things which, if true, merit concern and adjudication. There can be no doubt, either, that Mr James has been difficult, querulous and uncooperative in many respects. Some of this may be attributable to the heavy artillery that has been deployed against him, though I hope that for the future he will be able to show the moderation and respect for others which he displayed in his oral submissions to this court. But the courts and tribunals of this country are open to the difficult as well as to the compliant, so long as they do not conduct their case unreasonably.

41. In **Arrow Nominees Inc v Blackledge** [\[2000\] 2 BCLC 167](#) it was held:

55. Further, in this context, a fair trial is a trial which is conducted without an undue expenditure of time and money; and with a proper regard to the demands of other litigants upon the finite resources of the court

42. Choudhury J (President) made a very important point about what constitutes a fair trial in **Emuemukoro v Croma Vigilant (Scotland) Ltd** [\[2022\] ICR 327](#):

19 I do not accept Mr Kohanzad's proposition that the power can only be triggered where a fair trial is rendered impossible in an absolute sense. That approach would not take account of all the factors that are relevant to a fair trial which the Court of Appeal in Arrow Nominees [\[2000\] 2 BCLC 167](#) set out. These include, as I have already mentioned, the undue expenditure of time and money; the demands of other litigants; and the finite resources of the court. These are factors which are consistent with taking into account the overriding objective. If Mr Kohanzad's proposition were correct, then these considerations would all be subordinated to the feasibility of conducting a trial whilst the memories of witnesses remain sufficiently intact to deal with the issues. In my judgment, the question of fairness in this context is not confined to that issue alone, albeit that it is an important one to take into account. It would almost always be possible to have a trial of the issues if enough time and resources are thrown at it and if scant regard were paid to the consequences of delay and costs for the other parties. However, it would clearly be inconsistent with the notion of fairness generally, and the overriding objective, if the fairness question had to be considered without regard to such matters.

Conclusions

43. As set out above there are three questions the tribunal must answer;

- i) Whether the threshold for considering whether to make a strike out order has been met;
- ii) If so whether a fair trial (in the sense set out above) is still possible;
- iii) Whether a lesser sanction would be proportionate.

44. In my judgement the respondent is correct. Where the claimant refuses to permit the hearing to proceed without his consent, and places wholly unreasonable and unachievable demands in order to grant his consent; and then chooses not to attend

in the afternoon whilst the hearing is proceeding, is necessarily unreasonable and possibly vexatious. The threshold for considering making a strike out order has necessarily been met.

45. In respect of the second question I accept that fair hearing is clearly no longer possible for the reasons given by the respondent as set out above; and in respect of third I accept no lesser sanction would assist in allowing the hearing to proceed; and that to adjourn would be pointless.
46. As a result, and in the claimant's voluntary absence I announced orally that I acceded to the respondents application and proposed to issue an order striking out the claim.
47. Having done so the respondent indicated that it intended to make a costs application and the hearing was adjourned until 10.00 a.m. on day 2 to allow that application to be made and heard.

Day 2 - 10.00 A.M

48. The claimant did attend on day two of the hearing at 10 a.m. and I informed him of what had occurred in his absence on day one. I also informed him that I had the discretion to revoke or set aside my strike out decision of the day before if that is what he was asking me to do. I invited him tell me whether he still maintained that the tribunal was not properly constituted, and that he would not participate in the hearing if it remained listed with me as the employment judge and sitting alone.
49. The claimant's position was not at all clear. On a number of occasions he appeared to suggest that his position had not changed, and on others that he would simply accept the tribunal's decision as to whether to proceed or not. I asked him whether he was requesting me to reconsider my decision of the day before, and if so whether if I did he would participate in the proceedings. He voiced a number of objections to doing so. As is set out in EJ Woodhead's CMO from the ADR hearing the respondent had supplied its witness statements to the claimant on the 7th January 2026 in the belief that the claimant had not disclosed any witness statements himself. The claimant repeated that he had not given permission for the respondent to supply its witness statements after the date for exchange of the 19th December 2025, and that accordingly there were no witness statements from the respondent, and that in fact it was the response that should be struck out. In fact, in his CMO EJ Woodhead granted the respondent permission to rely on the witness statements and that issue had already been addressed; although the claimant did not accept this and repeated that he had not given his permission for time to be extended.
50. The claimant also indicated that on the 19th December 2025, in addition to his and his wife's witness statements he had sent further witness statement from Miss Oyeye. As had been confirmed in EJ Woodhead's hearing (and in fact the tribunal checked again today) no such e-mail was had been received by the tribunal. The claimant indicated that he wanted an investigation into why the e-mail was not on the tribunal system. I stated that it was not, and that if the claimant wished to rely on a witness statement he should supply a copy to the tribunal and the respondent. Miss

Oyeye was not in any event present at the tribunal, and the claimant had not yet made any arrangements for her to attend to give evidence. In the original case timetable the claimants evidence was due to be given on days two and three and so if he wished her to attend to give evidence he should have arranged for her to be available either today or tomorrow.

51. In addition to the issue as to Ms Oyeye's evidence, he stated that his witness statement is not in fact before the tribunal. EJ Woodhead had identified a document attached to the only e-mail of 19th December 2025 that was received by the tribunal as including the claimant and his wife's witness statements. The claimant's runs to some seven pages. However the claimant contends that in April 2024 he sent a document of some 155 pages to the respondent detailing eleven episodes of his life which he wished to stand as his witness statement, and which is not in the bundle. He stated that he wished to cross examine the respondent's witnesses about the aspects of his life reflected in that statement. I indicated that I had not read that statement, as it is not in the bundle, and that in any event I would only permit questions to the respondents witnesses that were relevant to any of the issues in this case, and not unrelated earlier incidents in his life.
52. In addition he reiterated that he required the attendance of the CEO of respondents parent company; and I reiterated at that it was for the respondents determine which witnesses it chose to call and not the claimant.
53. The discussion took a very considerable time and eventually at approximately 12:45 I stated that we would break for lunch, and that after it I wanted the answer to a very simple question from the claimant. The case has been listed for final hearing starting yesterday. He must have come prepared to give evidence and be cross examined, and to cross examine the respondents witnesses. I asked him to give me a simple one word answer whether he wished me to reconsider my strike out application to revoke it, and permit the hearing to go ahead with the evidence starting, subject to any objection from the respondent, in the afternoon of the second day on the basis of the witness statements of the claimant his wife. He could, if he wished to, send a copy of Miss Oyeye's witness statement to the tribunal which it could give such weight to as I thought fit if he was not able to arrange for her to attend and give evidence.

Day 2 - 2.00 P.M.

54. The claimant did not in fact answer that question, and continued to reiterate many of the points made above; in particular that the respondent had exchanged its witness statements late and should not be permitted to call any witness evidence; and that his actual witness statement was the document supplied in April 2024. I explained again that EJ Woodhead had already determined that issue; and that EJ Beever had given permission for the claimant to supply a further five hundred pages of documents if he wished to do so. He had not done so, and in particular he had not disclosed any copy of the document of April 2024. As I understood it the claimant was at very least asking to re-open the earlier case management orders of EJ Beever and EJ Woodhead and was not willing to continue without revisiting those earlier

case management orders. Whilst this was not exactly the same position he had taken either in the morning of day 1 or earlier in day 2, it remained the case that the claimant was not accepting that the final hearing could proceed. I stated that if I would only set aside my strike out judgment if the result would be that the case could proceed. If, as it appeared to be, the claimant's position was that I should set aside the strike out decision in order not to proceed to final hearing but to revisit the earlier case management decisions I would not do so.

55. The respondent complained, not unreasonably, that I had already gone at very least as far as was reasonable, and possibly further, in attempting to assist the claimant, and that the claimant had been given every opportunity, but was clearly not altering his position.
56. As the discussion had occupied the whole of the second morning, and there was no alteration of the claimant's position, and no application for me to reconsider, I stated that the order made the day before remained in force and that the claim was struck out.

Costs Application

57. Following the announcement of that decision the respondent made its costs application. For completeness sake the written application is set out below:-

Application

*We respectfully apply, pursuant to Rule 74(1) of The Employment Tribunal Procedure Rules (**Rules**), for the Claimant to pay the costs incurred by the Respondent as a result of his conduct at the Final Hearing.*

Grounds in support of the Application

The Respondent contends that the Claimant's conduct leading up to and at the Final Hearing was vexatious and unreasonable pursuant to Rule 74(2)(a) of the Rules. In particular, the Tribunal's attention is drawn to the following:

- a. The Claimant has confirmed that he is unwilling to proceed with the Final Hearing without valid reason*
- b. The Claimant has continued to send correspondence to the Tribunal, the Respondent, its solicitors, and unrelated third parties on numerous occasions despite warnings, and which include intimidatory threats, including references to a "duel".*
- c. The Claimant has failed to comply with Tribunal Orders in that he has failed to provide witness evidence that complies with requirements set by the Tribunal*
- d. The Claimant has failed to accept delivery of hard copy documents from the Respondent.*

*Although the Respondent recognises that awarding costs is the exception rather than the rule, as per Mummery LJ, in *Barnsley MBC v Yerrakalva* [2011] EWCA Civ 1255,*

the Respondent considers this to be such a case which justifies a costs order given the facts set out above.

Costs

*The costs that the Respondent applies for the Claimant to be ordered to pay total **£20,000 plus VAT**. The Respondent confirms that this does not amount to the total costs incurred in connection with defending the claim, which exceeds £50,000 plus VAT.*

We request that the Application is determined at the reconvened Final Hearing on 10 February 2026.

The Respondent expressly reserves the right to make a further application for other costs incurred in the proceedings where it is considered appropriate and necessary.

Appropriateness, assessment of the paying party's ability to pay and level of award

As per Rule 82 of the Rules:

"In deciding whether to make a costs, preparation time order, or wasted costs order, and if so the amount of any such order, the Tribunal may have regard to the paying party's (or, where a wasted costs order is made, the representative's) ability to pay."

The Respondent submits that it would be appropriate for an order to be made for payment of the entirety of the costs it has reasonably incurred in respect of attendance at the Final Hearing. The costs claimed fall within the definition of costs set out in Rule 2 of the Rules and pursuant to Rule 74(2)(a) of the Rules are less than the level at which a detailed assessment would be required.

Although there is no requirement for the Respondent to demonstrate a causal link between the Claimant's unreasonable conduct and the specific costs it has incurred, the Tribunal must look at the situation as a whole (per Yerrakalva). The effect of the Claimant's conduct has been to inflate the Respondent's costs.

This is not a case in which the Respondent has made more of the proceedings than was necessary or that its costs are unreasonable. Fee earners of an appropriate level of experience/and cost commensurate to the issues to be addressed in the claim have worked on the matter. Only work carried out which it is appropriate to charge for has been charged and a proportionate amount of time necessary to address matters has been spent in carrying out that work.

It is submitted that an order for the Respondent's costs as requested would not be to punish the Claimant, but to compensate the Respondent for the costs it has genuinely had to pay to defend the claim (Lodwick v Southwark London Borough Council [2004] ICR 884, CA).

The Tribunal is not obliged to consider the means of the paying party and in fact it is not required to limit costs to an amount that the paying party can afford to pay (Arrowsmith v Nottingham Trent University [2012] ICR 159, CA). As such, should the Claimant decide not to make any representations in this regard, this should not be a bar to the Tribunal's exercise of discretion in making an order.

Conclusion

The Respondent respectfully submits that grounds exist which require the Tribunal to consider an award for costs in these circumstances.

The Respondent respectfully considers that in this instance the Tribunal should exercise its discretion in favour of making an order for costs against the Claimant and that the order should be to compensate the Respondent for the costs it has incurred as set out above. As a reminder, the Respondent is only claiming for costs it believes has been unreasonably incurred due to the Claimant's failures identified above, it is not seeking to claim for costs in connection with the preparation of its own case or reasonable work incurred in connection with its preparations for the Final Hearing.

Overriding objective

The Respondent respectfully submits that its application is in accordance with the overriding objective set out at Rule 3 of the Rules.

It is submitted that the Rules envisage that in some cases a costs order may be necessary to ensure that a case is dealt with fairly and justly due to the actions of a party prior to the making of such an application. As submitted above, the effect of the Claimant's conduct has been to inflate the Respondent's costs, and the granting of such an order would not unnecessarily punish the Claimant but rather genuinely compensate the Respondent.

58. In my judgement the threshold for making an order for costs had clearly been met in that the unreasonable refusal to participate in the proceedings and/or only do so upon conditions imposed by the claimant being met is necessarily unreasonable and/or vexatious conduct within the meaning of rule 74(2)(a).
59. That leaves the questions of whether to exercise to my discretion to make an order and if so in what amount. There have been two TCMPhs, a two day preliminary hearing and an ADR hearing prior to this hearing. If this hearing could not proceed in my judgment all of the costs relating to those hearings and the conduct of the proceedings generally had been wasted, as the whole purpose of such hearings is to prepare for and allow a fair final hearing to take place. It follows that in my judgment the amount of costs sought of £20,000 was not in and of itself excessive or unreasonable.
60. In terms of the claimant's means he firstly informed me that he intended to apply for judgement in the sum of £1 million against me personally and/or the court service

and judgment in the sum of £24 million against the respondent. I asked him whether he was inviting me to take into account the possibility that he would shortly come in to £25 million, and whether if I thought that was unrealistic whether he wished to provide any information as to his current actual means. He declined to provide any information.

61. In the circumstances there was in my view no basis in principle not to make the order for £20,000 in costs for the reasons set out above; and that there was no evidence before me of the claimant's means which would allow me to consider whether to make an order in any lesser sum, and if so how much, taking them into account.
62. As a result I made the order that the claimant pay the respondents costs in the sum of £20,000.

Judgment Approved by EJ
Cadney

EMPLOYMENT JUDGE CADNEY
Dated: 2nd March 2026

Judgment sent to parties on
30 March 2026