



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr Hughes Kadima

**Respondent:** Watford General Hospital

**Heard at:** Watford via video

**On:** 11 March 2026

**Before:** Employment Judge MJ Smith

## Appearances

For the claimant: In person

For the respondent: Mrs Bijal Dalsania (solicitor)

## JUDGMENT

1. The application to strike out the claim under Employment Tribunal Rule 38(1)(a) is dismissed.
2. The application to strike out the claim under Employment Tribunal Rule 38(1)(e) is dismissed.

## REASONS

### Introduction

3. The claimant was employed by the respondent, a hospital, as a staff nurse, from 22 January 2024 until 23 August 2024. Early conciliation started on 22 October 2024 and ended on 21 November 2024. The claim form was presented on 27 November 2024. The claim was about race and sex discrimination.

4. A preliminary hearing was listed on 10 March 2026 to deal with the respondent's strike out under rule 38(1)(a) and (e) of the Employment Tribunal Procedure Rules 204 on the basis that the claimant's claim has no reasonable prospects of success and it is no longer possible to have a fair trial.
5. The claimant was given an opportunity to clarify his application and stated that the application was being made because the respondent had submitted false evidence against or about the claimant in relation to his claims.

## **Law**

6. Rule 38 of the Employment Tribunal Procedure Rules 2024 provides:

### 38.— Striking out

(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 ... has no reasonable prospect of success;

...

(e) that the Tribunal considers that it is no longer possible to have a fair hearing in respect of the claim.

## **The evidence before me**

7. The Tribunal had the following documents at the Preliminary Hearing:

a) Respondent's Preliminary Hearing bundle of 47 pages

8. Both parties were given an opportunity to make submissions.

## **Strike out application**

9. The claimant made an application to strike out the claim on two grounds namely rule 38(1)(a) on the grounds that the respondent's claim has no reasonable prospects of success and rule 38(1)(e) on the grounds that it was no longer possible to have a fair trial.

## Rule 38(1)(a) Factual dispute

10. The claimant's argument was based on the significant number of factual disputes between the claimant and the respondent. In particular the claimant alleged that facts relied upon by the respondent were false and misleading. This did not pass the high threshold for strike out because the factual disputes need to be resolved at a final hearing. There was a reasonable prospects of success on the response given the factual disputes.

Rule 38(1)(e) Factual dispute

11. The claimant's argument was again based on the factual disputes between the claimant and the respondent. Matters of factual dispute are more appropriately resolved by a final hearing where evidence can be hear on oath. The hearing on 11 March 2026 was a preliminary hearing and key parts of the tribunal process had not yet been completed. It is still possible to have a fair hearing.

**Conclusion**

12. The strike-out application is dismissed.

**Approved by  
Employment Judge MJ Smith  
12 March 2026**

Judgment sent to the parties on:

27 April 2026

For the Tribunal:

**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/](http://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/)