Case Number: 3315226/2023

EMPLOYMENT TRIBUNALS

Claimant: Ms Denise Williams

Respondent: DLRC Ltd

RECORD OF A PUBLIC PRELIMINARY HEARING

Heard at: Cambridge Employment Tribunal (hybrid)

On: 6 March 2026

Before: Employment Judge Hutchings
Tribunal member C. Grant
Tribunal member J. Vaghela

Appearances
For the claimant: in person
For the respondent: Mr M. McNally, counsel

JUDGMENT

It is the unanimous decision of this Employment Tribunal that:

1. The complaint of pregnancy discrimination is struck out for failure to comply with Tribunal orders and for having no reasonable prospects of success.

2. The complaint of automatic unfair dismissal is struck for failure to comply with Tribunal orders and for having no reasonable prospects of success.

3. The complaint of wrongful dismissal is struck out for having no reasonable prospects of success.

Subject to the determination of the respondent's application for a deposit order (details for which are below), the complaints of race and religious discrimination will proceed to the hearing in person at **Cambridge Employment Tribunal**,

located at Cambridge County Court County Court, 197 East Rd, Petersfield, Cambridge CB1 1BA on **21 September 2026, 22 September 2026, 23 September 2026, 24 September 2026 and 25 September 2026.**

A separate case management order of today's date has been sent setting out further orders which must be complied with in this case.

REASONS

Introduction and background facts to this hearing

1. A final hearing in this case was listed for 18, 19, 20, 21 and 22 August 2025. This hearing was adjourned part heard on 21 August 2025 as the claimant did not attend and 15 minutes before the hearing was due to start she sent an email to the Tribunal clerk informing the Tribunal that she was in attendance at A&E due to concerns with her current pregnancy. The claimant asked if the hearing could take place as a telephone hearing that day. Final hearings cannot take place by telephone; in any event, a hearing cannot proceed when 1 party is at A&E, therefore we refused this request

2. We considered an appropriate date to reconvene the hearing which was fair to both parties. At the hearing the claimant told us her due date for her current pregnancy is 13 March 2026. We listed the reconvened hearing for 21 to 25 September 2026 because we considered it fair to the claimant for her baby to be 6 months old to facilitate her ability to arrange childcare and ensure her attendance at the hearing. Any complications she was experiencing with her pregnancy at that time were not relevant to the date the final hearing reconvened, nor were they discussed with or considered by the Tribunal in setting that date.

3. In deciding the date of the reconvened hearing we were mindful of Rule 3 of the Employment Tribunal Procedure Rules 2023 (the "Rules"), specifically the requirement to deal with cases fairly and justly and avoiding delay, so far as compatible with proper consideration of the issues. Therefore, we considered the prejudice to the respondent of delaying the final hearing for a year, mindful none of the respondent's witnesses gave evidence to the Tribunal in August 2025, the ability to recall events fades with time and the events about which the claimant complains date to 2022 and 2023. There is clearly a prejudice to the respondent in this regard as the final hearing will now take place 3-4 years after the events complained of. However, we considered the balance of prejudice favoured the claimant as it is necessary to ensure she can attend the hearing to enable the Tribunal to properly consider the issues before us. We made case management orders at the hearing, which were set out in a record of hearing of the same date and sent to both parties by Tribunal administration on 12 September 2025.

4. At the hearing on 18 and 18 August 2025 we ordered the claimant to provide evidence confirming the dates of her pregnancy to which the discrimination complaint relates. While she provided some documents, the Tribunal were not able to identify from these the dates of her pregnancy. Mindful the claimant is not represented, we spent sometime explaining why it was imperative that the

claimant provide this information; specifically, the dates of pregnancy are required to enable the Tribunal to identify whether the factual complaints (if upheld) took place in the "protected period" (issue 9b in the list of issues which is included in the 21 August case management order).

5. The orders are also relevant to the complaint of dismissal as it is also necessary for the Tribunal to identify the protected period to determine this complaint (issue 10) and the complaint of automatic unfair dismissal as the claimant replies on her pregnancy in this complaint (issue 12).

5.1. *The Tribunal orders dated 21 August 2025 relating to the complaint of pregnancy discrimination and dismissal*

6. Therefore, as the claimant had not provided the documents evidencing this either prior to (as part of ordered disclosure) or during the hearing, before adjourning the hearing on 21 August we made the orders below. At the hearing we explained the potential consequences of the claimant failing to comply with these orders, specifically that the claims could be struck out by the Tribunal on its own initiative, and while we are a no costs Tribunal as a matter of course, should there be an application for costs before the Tribunal, failure to comply with Tribunal orders is one thing the Tribunal may take into account in exercising its discretion as to whether to make a costs order. The orders were recorded in the record of hearing sent to both parties on 12 September 2025 as were the potential consequences of any failure to comply by the claimant.

7. The orders for disclosure of documents relevant to the pregnancy discrimination and dismissal complaints are (paragraph 13):

> ***"Order for disclosure of documents by the claimant***
>
> ***By no later than 4pm on 3 October 2025 the claimant must send to the respondent and the Tribunal the following documents:***
>
> *An unredacted copy of the document at page 729 of the hearing file;*
>
> *Documents which evidence the dates of the claimant's pregnancy which ended in a miscarriage in June 2023 and the date when the claimant found out she was pregnant; and*
>
> *Documents which evidence the dates of the claimant's pregnancy which ended in the birth of her baby on 9 July 2024 and the date when the claimant found out she was pregnant."*

8. The record of hearing sets out the context of the reference to the redacted documents as follows (at paragraph 11):

> *"On 18 August 2025 the claimant was ordered to provide documents to the Tribunal and the respondent evidencing the dates of the pregnancies on which she relies in her complaint of pregnancy discrimination. At the hearing the claimant explained this would be challenging as she had recently moved overseas. She did provide copies of electronic documents and referred the Tribunal to the document at page 729 of the hearing file. Having reviewed these documents the Tribunal makes the following observations:*

The documents are heavily redacted without explanation; and

In any event, the documents do not identify the dates of the pregnancies so do not satisfy the Tribunal's order.

On 18 August 2025, mindful the claimant is not represented, we referred the claimant to issues 4, 5 and 6 of the list of issues (below) and explained that it was necessary for the claimant to identify the dates of her pregnancy (so that the protected period can be identified) and when she told the respondent. We understand that this week has been very difficult for the claimant. Therefore, we consider it fair and just to afford the claimant a further opportunity to provide these documents."

9. We are satisfied that in the guidance recorded in this record, and the more detailed guidance given to the claimant at the hearing (which is set out in the Tribunal's notes of the hearing), mindful she is not represented, complies with the requirement at Rule 3(2)(a) to ensure parties on an equal footing.

10. At the start of the hearing on 18 August 2025 we discussed, and sought to finalise the list of issues with the parties. In so doing we noted that the claimant had not explained the basis on which she was relying on a hypothetical comparator in her complaints of direct race and religious discrimination. Specifically, we explained that it is not sufficient to identify less favourable treatment and protected characteristic(s). A claimant must identity "something more" than the treatment and her race /religion She must explain to the Tribunal why she considered the respondent's alleged behaviour was because of her race / religion, something she had not addressed in her witness statement.

11. Again, we are satisfied that this explanation complies with the requirement at Rule 3(2)(a) to ensure parties on an equal footing by explaining to the claimant in plain language the constituent parts of a direct discrimination complaint. In summary, we told her she would need to explain to the Tribunal the basis on which she says the burden of proof is switched to the respondent by identifying facts she says links the alleged behaviour to her race and / or religion.

Respondent's application to strike out the claimant / deposit order in the alternative

12. This public preliminary hearing was listed by Tribunal administration to consider the respondent's application dated 13 October 2025 to strike out the claim / make deposit order in the alternative. On receipt of the application, Tribunal administration identified a date when all 3 panel members were able to attend the hearing (taking account of other hearings in our and the Tribunal diary) and a notice of hearing was sent to parties on 27 November 2025.

13. At 8.07 on 4 March 2026 the claimant emailed the Employment Tribunal applying to postpone the public preliminary hearing due to take place on 5 March 2026. The application attached a January 2026 medical letter stating that the claimant was in the late stages of a high risk pregnancy and unable to attend the hearing by CVP.

14. In the email the claimant states that:

    "I would like to draw the Tribunal's attention to the fact that the hearing in September [2026 was listed – inserted for clarity and context] for this very reason, namely my pregnancy and associated health considerations".

15. This is factually incorrect in part, as the Tribunal's formal record and notes of the hearing evidence. The hearing in September 2025 went part heard due to the non-attendance part way through of the claimant due to medical conditions (addressed above). The date for the reconvened hearing in September 2026 had nothing to do with the claimant's medical conditions in August 2025 or any subsequent conditions with her pregnancy which have arisen. These are not relevant to the date of the September hearing as the Tribunal panel when setting this date were aware the claimant's due date is 13 March 2026. The only relevant, and considered, factor in setting date of September 2026 was to allow the claimant sufficient time after the birth of her baby to be in a position to attend the hearing. While 3 months may have been appropriate, we acted on the side of caution and listed the hearing 6 months after the due date to ensure the claimant has sufficient time to arrange childcare to enable her to attend the hearing and pursue her claim. As the baby will be 6 months old by this time, we decided the baby would be sufficiently old enough to enable the claimant to attend the hearing, notwithstanding the concerns the Tribunal noted at the time as to whether a fair trial for both parties could take place given a gap in proceedings of a year. Indeed, given the length of the adjournment the Tribunal had to take the unusual step of releasing the claimant for her oath as the respondent's representative had begun cross examination of the claimant's evidence.

16. In identifying a date when all 3 panel members could sit and sending the notice of hearing in November 2025 Tribunal administration were not aware that the claimant was pregnant (the complaint of pregnancy discrimination does not relate to the claimant's current pregnancy) and, accordingly, not aware of her due was 13 March 2026. Of course, had they been so, the hearing would not have been listed 7 days before the claimant's due date. The date of this hearing is unfortunate; however, it was by coincidence not design. Furthermore, on receipt of the notice the claimant did not inform the Tribunal that this date was an issue.

Findings of fact for the postpone application

17. The notice of hearing evidences that the claimant knew, or ought to have known, the date of today's hearing on 27 November 2025 as this was the date it was sent to the claimant by her contract details on the Tribunal file. As she had told us on 21 August 2025 that her due date is her current pregnancy is 13 March 2026 we find that she would have known on 27 November that it was highly unlikely that she would be unable to attend today's. However, she did not contact the Tribunal and ask for the hearing to be postponed at this time.

18. In fact she did not do so until 4 March 2026, 2 days before the hearing, despite that email attaching medical evidence from a clinician in Bern, Switzerland being dated 14 January 2026.

19. The email states:

I hereby certify that my patient is currently in an advanced stage of a high-risk pregnancy. Due to her current medical condition and advanced gestational age, she is medically unfit to attend court proceedings, including participation in online or virtual hearings, at this time. The physical and psychological strain associated with such proceedings would pose a significant risk to her health and to the health of her unborn child.

For these medical reasons, it is strongly advised that she be excused from attending her scheduled court hearing on 06 March 2026.

This medical certificate is issued following clinical assessment and in the best interest of both the patient and her unborn baby."

20. Therefore, taking the claimant's case at its highest, even if she thought she would be able to attend today's hearing when she received the notice of hearing in November 2025, we find that the claimant knew by 14 January 2026 at the latest that she could not attend today's hearing. However, she did not contact the Tribunal at this time to request a postpone of this hearing.

21. The claimant's email dated 4 March 2024 was referred to EJ Hutchings by Tribunal administration at 10:23 on 5 March 2026. At 11.43am EJ Hutchings instructed Tribunal administration to send the following email to the parties:

"EJ Hutchings notes receipt of the claimant's application dated 4 March 2026 to postpone the hearing on 5 March 2026. As the respondent has not had the opportunity to reply and EJ Hutchings is in hearings today, and accounting for the fact the application was made within 7 days of the hearing date, the Tribunal panel will consider the application at the start of the hearing tomorrow.

The Tribunal will consider the application by reference to rule 32 of the Employment Tribunal Procedure Rules 2024, which are copied below for reference, mindful the claimant is not represented, and any submissions made by the respondent. It is noted the claimant will not attend the hearing. The Tribunal panel will consider the claimant's email and attached medical evidence in deciding whether to postpone the hearing.

Relevant law - postponements

32.—(1) An application by a party for a postponement must be received by the Tribunal as soon as possible after the need for a postponement becomes known.

(2) In the circumstances listed in paragraph (3) the Tribunal may only order a postponement where—

(a)all other parties consent, and—

(i)it is practicable and appropriate for the purposes of giving the parties the opportunity to resolve their disputes by agreement, or

(ii)it is otherwise in accordance with the overriding objective,

(b)the application was necessitated by an act or omission of another party or the Tribunal, or

(c)there are exceptional circumstances.

(3) The circumstances are—

(a)a party makes an application for a postponement less than 7 days before the date on which the hearing begins, or

(b)the Tribunal has ordered two or more postponements in the same proceedings on the application of the same party and that party makes an application for a further postponement.

(4) In this rule—

(a)"postponement" means a postponement of a hearing including any adjournment which causes the hearing to be held or continued at a later date;

(b)"exceptional circumstances" may include ill health relating to an existing long term health condition or disability."

22. In so doing EJ Hutchings was mindful of Rule 3 and the fact that all Tribunal decisions must be fair and just to both parties and given the lateness of the claimant's application the respondent must be afforded the opportunity to respond. Given the timeline of the application, this had to be at the hearing. Furthermore, as the case is adjourned part heard the application had to be considered by the full Tribunal panel which could not be convened until 6 March 2026. Tribunal administration have confirmed to the panel that this email was sent to both parties on 5 March 2026.

Hearing on 5 March 2026

23. The respondent attended the hearing. As the claimant did not attend, as indicated in her email, first we must consider Rule 47 as follows:

Non-attendance

47. *If a party fails to attend or to be represented at a hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it must consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence.*

24. Applying Rule 47, the key circumstances are that the claimant indicated 2 days before the hearing that she would not be attending for medical reasons, submitted medical evidence dated 14 January 2025 to the Tribunal to support this reason and requested a postponement of the hearing. For these reasons we agreed unanimously that it is not just and fair to dismiss the claim for reason of the claimant's non-attendance.

25. Therefore, we proceeded with the hearing in the claimant's absence sitting as a full Tribunal panel to consider the following:

25.1. The claimant's application dated 4 March 2026 to postpone this hearing; and

25.2. If we decide not to postpone the hearing, the respondent's application to strike out the claim / a deposit order in the alternative.

26. Applying Rule 32, as the claimant made the application 2 days before the hearing by Rule 32(3)(a) when a party makes an application for a postponement less than 7 days before the date on which the hearing begins we must consider whether there are exceptional circumstances to grant the postponement. We note that Rule 32(4)(b) that:

    ""exceptional circumstances" may include ill health relating to an existing long term health condition or disability."

27. We have considered the following facts:

    27.1. that on 21 August 2025 the claimant told us her due date was 13 March 2026;

    27.2. while we were aware that the claimant had a sudden concern about her pregnancy which prevented her attending the hearing on 21 August, she did not tell us nor was there any evidence before us in August 2025 that this was a long-term health condition;

    27.3. the claimant was aware of this hearing date on 27 November 2025 when she received the notice of hearing;

    27.4. the claimant received medical advice on 16 January 2026 that her pregnancy was high risk at this time but she did note share this information with the Tribunal or request a postponement at this time, only doing so on 4 March 2026.

28. Given the claimant did not consider it necessary;

    28.1. to inform the Tribunal in November 2025 that the date the Tribunal had listed for this hearing was a week before her due date, or request a postpone, or

    28.2. to inform he Tribunal in January that the date the Tribunal had listed for this hearing was a week before her due date, or request a postpone;

    we conclude that there are no exceptional circumstances before the Tribunal to merit postponing this hearing. Taking the claimant's case at its highest, even if pregnancy of 9 months is considered a long term health condition, the associated ill-health as known to the claimant in January 2026 and is not a recent development.

29. For this reason we do not consider it an exceptional circumstance. The claimant could in November 2025 ad January 2026 made a timely request to postpone the hearing either because of her due date (November 2025) or because her pregnancy had been identified as high risk (January 2026).

30. Furthermore, there is no omission by the Tribunal administration in identifying today as the hearing date as they were not aware of the claimant's due date when the hearing was listed. Again, it was open to the claimant to raise this in November 2025 had she had any concerns at that time.

31. Therefore, mindful of Rule 3 we considered if just and fair in all the circumstances as we have found them to proceed with this hearing.

Strike out application / deposit order in the alternative

32. We have considered the respondent's application dated 13 October 2025 to strike out the claim / a deposit order in the alternative. In so doing we had the benefit of a 62 page hearing file submitted by the respondent. It contained the application, the claimant and respondent's witness statements from the August 2025 final hearing and our 21 August 2025 record of hearing.

33. Mr McNally briefly summarised the application, referring us to the detail in the written application. In summary the respondent submits, cumulatively / in the alternative that:

    33.1. The claimant's claims have little or no reasonable prospects of success pursuant to Rule 38 (1)(a) as the failure by the claimant to produce the ordered documents evidencing the dates of her pregnancy means that it is not possible for the Tribunal to identify the "protected period". Without evidence of the protected period, the respondent submits that the complaints of pregnancy discrimination and automatic unfair dismissal because of pregnancy have no reasonable prospect of success.

    33.2. As to the complaint of race discrimination, the respondent relies on the factual evidence in its witnesses statements (and the fact its witnesses corroborate each others recollections) to assert the events complained of did not happen in the manner alleged by the claimant. The respondent also submits that the claimant has not provided evidence from which the tribunal could draw an inference of discrimination so as to shift the burden of proof. In respect of the harassment claim, the respondent says the allegations (if upheld) are not unwanted conduct related to the relevant protected characteristic (race).

    33.3. The respondent relies on analogous reasoning in seeking to strike out the complaint of religious discrimination.

    33.4. As to the complaint of wrongful dismissal the respondent submits that it communicated its decision to terminate the claimant's employment on 26 October 2023. Despite this, the respondent paid sick pay to the claimant until the expiry of her fit note on 16 November 2023. In addition, it proceeded to pay her in lieu of her three months' notice period. The respondent says it made deductions due to the claimant's failure to of her company property in accordance with the claimant's contract of employment.

    33.5. The claimant has not complied with Tribunal orders and this is a ground for strike out pursuant to Rule 38 (1)(c). The respondent asserts that the claimant has failed to provide copies of the documents ordered at paragraph 13 of our case management order dated 21 August 2025 and sent to parties on 12 September 2025 by 3 October 2025 as ordered, or at all. These documents are relevant to the complaint of pregnancy discrimination and automatic unfair dismissal.

    33.6. The claimant's claim has not been actively pursued (Rule 38(1)(d).The respondent says in failing to comply with paragraph 13 of our case management order dated 21 August 2025 as ordered, or at all,

she is not actively pursuing the complaints of pregnancy discrimination and automatic unfair dismissal. As to all complaints, the respondent cites the claimant not providing comments on the draft list of issues when requested and not providing full disclosure of documents / providing late disclosure and submitting her witness statement late prior to the August 2025 hearing.

33.7. That the manner in which the proceedings have been conducted by the claimant has been scandalous, unreasonable or vexatious pursuant to Rule 38(1)(b). The respondent relies on the chronology set out in its application to assert that the claimant has consistently delayed with providing documents or information required by the respondent and/or the Tribunal and when she has reluctantly provided documents, including the medical evidence requested to show the protected period, those documents have been heavily redacted. This has meant that neither the respondent nor the Tribunal has been able to identify the protected period for the complaint of pregnancy discrimination.

33.8. The respondent submits that the claimant may be attempting to mislead the respondent and the tribunal in respect of the date on which she became aware of the pregnancy which resulted in childbirth on 9 July 2024, and that it may in fact be the case that she was not aware of that pregnancy prior to the respondent deciding to terminate her employment in October 2023. To date, as set out above, the claimant has not evidenced the dates of this pregnancy to the Tribunal.

33.9. The respondent also relies on a series of failings by the claimant to comply with dates for disclosure, witness statements and finalising the hearing file. It is not proportionate to set out the chronology of the alleged failings here (the application can be referenced for those details). The approach taken by the Tribunal at the start of the August 2025 final hearing, mindful the claimant is not represented, was “we are where we are”, we have witness statements and a hearing file and the Tribunal made an order during that hearing for the key evidence not provided by the claimant, namely proof of her pregnancy dates. The respondent says that the claimant’s failure (which she admitted to us) to arrange childcare on 21 and 22 August 2025, which meant the hearing could not go ahead. This would have been the case but for the fact that events intervened and the claimant became unwell in her current pregnancy resulting in the adjournment of the hearing.

33.10. As to the respondent’s concerns about incurring costs of a second five day hearing, and that a fair trial may not be possible. Costs are a matter for the respondent in light of the decisions made today. We share the respondent’s concerns about a fair trial, but for reasons set out above consider the balance of prejudice marginally favours the claimant.

34. We took a break of an hour to consider the application. EJ Hutchings delivered an oral decision.

35. Mindful of Rule 3and the requirement to ensure proceedings are fair and just and the fact the claimant did not attend the hearing, these reasons have been issued without a request.

Findings of fact for the strike out / deposit order application

36. The relevant facts regarding the provision of evidence to support the complaint of pregnancy discrimination are set out above. As at 7 March 2026 (6 months after the final hearing adjourned), and despite ordering the same during the hearing and making written orders after the hearing, the Tribunal still has no evidence before it from which it can identify the dates of the claimant's pregnancy in the complaints of pregnancy discrimination and unfair dismissal.

37. Based on our notes of the final hearing, including the exchange between parties on day 1 concerning the timetable of events leading to that hearing, we find the chronology of the claimant's conduct set out by the respondent in its application accurate.

38. We have considered the claimant's contact of employment in the hearing file, which she signed on 11 August 2022. We find clause 25(e) entitles the respondent to make deductions notified to the claimant at the relevant time. Clause 21 of the claimant's employment contract requires her to return company property. In her witness evidence the claimant accepted that she had not returned property. We have seen correspondence from the respondent to the claimant between 26 October 2023 and 22 November 2023 seeking to recover company property.. The respondent says the claimant did not engage with this; there is no evidence before us she replied to this correspondence. We find it satisfies the requirements of clause 25 to notify the claimant of a deduction. The deductions was subsequently made, we find in accordance with the claimant's employment contract.

39. We have also seen documents which confirm the respondent communicated its decision to terminate the claimant's employment on 26 October 2023 and that she was paid sick pay to the claimant until the expiry of her fit note on 16 November 2023 in addition to a payment equivalent to three months' notice pay. We find this accords with clause 21 (notice) of the claimant's employment contract.

Relevant law

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

Striking out
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).
(2) A claim, response or reply may not be struck out unless the party advancing it has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.

(3) Where a response is struck out, the effect is as if no response had been presented, as set out in rule 22 (effect of non-presentation or rejection of response, or case not contested).
(4) Where a reply is struck out, the effect is as if no reply had been presented, as set out in rule 22, as modified by rule 26(2) (replying to an employer's contract claim).

41. Rule 40 of the Employment Tribunal Rules of Procedure 2024 provides:

Deposit orders
40.—(1) Where at a preliminary hearing the Tribunal considers that any specific allegation or argument in a claim, response or reply has little reasonable prospect of success, it may make an order requiring a party ("the depositor") to pay a deposit not exceeding £1,000 as a condition of continuing to advance that allegation or argument ("a deposit order").
(2) The Tribunal must make reasonable enquiries into the depositor's ability to pay the deposit and have regard to any such information when deciding the amount of the deposit.
(3) The Tribunal's reasons for making the deposit order must be provided with the order and the depositor must be notified about the potential consequences of the order.
(4) If the depositor fails to pay the deposit by the date specified by the deposit order, the Tribunal must strike out the specific allegation or argument to which the deposit order relates.
(5) Where a response is struck out under paragraph (4), the effect is as if no response had been presented, as set out in rule 22 (effect of non-presentation or rejection of response, or case not contested).
(6) Where a reply is struck out under paragraph (4), the effect is as if no reply had been presented, as set out in rule 22, as modified by rule 26(2) (replying to an employer's contract claim).
(7) If the Tribunal following the making of a deposit order decides the specific allegation or argument against the depositor for substantially the reasons given in the deposit order—
(a)the depositor must be treated as having acted unreasonably in pursuing that specific allegation or argument for the purpose of rule 74 (when a costs order or a preparation time order may or must be made), unless the contrary is shown, and
(b)the deposit must be paid to the other party (or, if there is more than one, to such other party or parties as the Tribunal orders),
otherwise the deposit must be refunded.
(8) If a deposit has been paid to a party under paragraph (7)(b) and a costs order or preparation time order has been made against the depositor in favour of the party who received the deposit, the amount of the deposit must count towards the settlement of that order

Analysis and conclusion

Pregnancy discrimination complaint

42. The claimant's complaint of pregnancy discrimination is struck out for repeated failures, at the hearing and following a subsequent written case management order, to comply with this Tribunal's order to provide evidence crucial for the claimant to prove her complaint, namely evidence of the dates of her pregnancy, notwithstanding the Tribunal repeatedly explaining to the

claimant the importance of these documents mindful that she is not represented (Rule 38(1)(c)). Given the repeated failure, we must conclude that the claimant is not actively pursuing this complaint (Rule 38(1)(d)).

43. In any event, by not providing evidence of the dates of her pregnancy, neither we nor the respondent can establish the "protected period". This the first, and essential, thing a claimant must establish. Without this evidence, we agree with the respondent that the complaint of pregnancy discrimination has no reasonable prospect of success (Rule 38 (1)(a)).

44. Of course we could make a further order for this evidence. That would be the fourth request (accounting for initial disclosure). It is not fair to ask the respondents witnesses to revisit their evidence as and when the dates are evidenced (which is unlikely given the claimant has failed to do so to date) and therefore a fair trial is not possible in September 2026.

Unfair dismissal complaint

45. Similarly, the complaint of unfair dismissal has no reasonable prospect of success due to the claimant's failure, despite repeated requests to satisfactorily evidence the dates of her pregnancy (Rule 38 (1)(a)). In failing to provide this information the claimant has failed to comply, repeatedly, with orders of this Tribunal (Rule 38(1)(c)).and we must conclude this complaint is not actively pursued (Rule 38(1)(d)).

Wrongful dismissal complaint

46. We have found, on the evidence before us at the August 2025 hearing, that the respondent complied with the terms of the claimant's contract. The amount the claimant received in notice pay accords with clause 21 of her contract and the deduction was awfully notified to her and made pursuant to clauses 21 and 25. For this reason, the complaint of wrongful dismissal has no reasonable prospects of success (Rule 38 (1)(a)).

Race / religious discrimination

47. The respondent asserts that these complaints have no reasonable prospect of success. In assessing whether we agree, we have taken account of case law guidance of higher tribunals and courts. In Anyanwu v South Bank Students' Union [2001] HL the House of Lords concluded the claimant had an arguable case and therefore it was wrong to strike out the complaint, emphasizing the importance of not striking out such claims as an abuse of the process except in the most obvious and plainest cases.

48. We remind ourselves based on this guidance that discrimination cases are generally fact sensitive and any issues should usually only be decided after all the evidence has been heard as their proper determination on the merits or demerits of its particular facts is a matter of high public interest. Strike out should only be used in the most plainest of cases, as here with the complaint of pregnancy discrimination. Failure to provide evidence to establish the protected period means the claimant cannot get her case off the ground.

49. In Ezsias v North Glamorgan NHS Trust 2007 ICR 1126, CA the Court of Appeal reminded us that an Employment Tribunal should be alert to provide

protection in the face of an application that has little or no reasonable prospect of success but it must also exercise appropriate caution before making an order that will prevent an employee from proceeding to trial in a case which on the face of the papers involves serious and sensitive issues. We note that only in exceptional cases will the tribunal strike out a claim as having no reasonable prospect of success where the central facts are in dispute — for instance, where the claimant seeks to establish facts that are totally and inexplicably inconsistent with the undisputed contemporaneous documentation. At this stage in the proceedings we have not had the opportunity to examine the documentary record beyond the complaint of unfair dismissal. While the claimant's position is undoubtedly weal vis a vis the respondent's witnesses consistent recollections, we follow the guidance of these higher courts and note we must not strike out if parties put forward diametrically opposed cases.

50. As the claimant's and respondent's recollections vary, mindful we must take the claimant's case at its highest and given the very important public interest issues relating to race and religious discrimination, it is not possible for us to conclude, at this stage, that the complaint's of race and religious discrimination have no reasonable prospect of success. The claimant has set out facts which conflict with the respondent's witnesses/ recollection and it is fair and just respective recollections are tested by the Tribunal.

51. That said, the complaints of race and religious discrimination are undoubtedly weak. Despite the guidance in the list of issues, and our guidance on day 1 of the final hearing, mindful the claimant is not represented, we agree with the respondent that the claimant has not identified the "something more" she relies on to explain why she links the alleged behaviour of the respondent's managers to her race or religion. We conclude it is a challenge, therefore, for the claimant to switch the burden of proof to the respondent.

52. Indeed, first she will have to prove that, on balance, the alleged treatment occurred as she recalls. In this regard we also consider her complaint weak. We make this assessment having had the benefit of reading the claimant and respondent's witnesses' statements on the first day of the final hearing in August 2025 and again at this hearing. The respondent's witnesses' recollections are consistent. At his stage in the proceedings we can only make a very high level assessment of credibility; the claimant's conduct in failing to assist us with evidence to identify the dates of her pregnancy unfortunately, and invariably, factors in our assessment of her credibility. We consider it is going to be a challenge for the claimant to prove events happened as she alleges.

53. Furthermore, she has not explained the basis on which any treatment was less favourable to her by comparison to a hypothetical comparator.

54. For this reasons we consider the complaints of race and religious discrimination have little reasonable prospect of success. However, we have not made a deposit order at this hearing for reasons we set out below

Manner in which the proceedings have been conducted by the claimant has been scandalous, unreasonable or vexatious

55. We agree with the respondent that the claimant's conduct is worrying. We have found that she has not actively pursued some of her complaints. We have found she did not make the necessary arrangements to attend the hearing. This is her claim to pursue, and on occasion on day 1 and day 2 of the August 2025 it seems to the Tribunal she is not taking it seriously; in not arranging childcare despite knowing the date of the hearing months in advance, the claimant disrupted day 2 of the hearing, resulting in wasted time to the Tribunal and time and cost to the respondent. Tribunal resources are limited, hence our waiting times. It is incumbent on a claimant to ensure that do everything possible to pursue their claim. That said, we are mindful that the claimant became unwell on day 3 and this was beyond her control. For these reasons, we conclude she has not reached the threshold of a scandalous, unreasonable or vexatious litigant.

Deposit order

56. For the reasons stated above, on the information before us at the moment we consider the complaints of race and religious discrimination have little reasonable prospect of success. However, we are mindful of the President of the Employment Tribunal's guidance that when making a deposit order the party in question should have a fair chance to explain the merits of his or her case. Furthermore, rule 40(2) states:

    "The Tribunal must make reasonable enquiries into the depositor's ability to pay the deposit and have regard to any such information when deciding the amount of the deposit."

57. Therefore, it is necessary to afford the claimant this opportunity. As she is currently living in Switzerland and will have a new born baby it is not feasible that she can attend a hearing in England at this time. However, it is not fair and just for the respondent to wait until September 2026 for its deposit order application to be determined. In these circumstances, we consider it just and fair that we order the claimant to provide this information in writing. **A separate case management order accompanies this judgment.**

58. That order also allows the claimant to request to attend a hearing in June 2026 by video link. However, if the claimant makes a request to attend a CVP hearing from Switzerland she must comply with the Tribunal's case management orders and with the UK government's guidance below for Switzerland. Failure to do earlier may result in the comlpaints of race and religious discrimination being dismissed.

    https://www.gov.uk/guidance/taking-and-giving-evidence-by-video-link-from-abroad

For these reasons, It is the unanimous decision of this Employment Tribunal that:

1. The complaint of pregnancy discrimination is struck out for failure to comply with this Tribunals orders and for having no reasonable prospects of success.

2. The complaint of unfair dismissal is struck for failure to comply with this Tribunals orders and for having no reasonable prospects of success.

3. The complaint of wrongful dismissal is struck out for having no reasonable prospects of success.

Approved by:

Employment Judge Hutchings

6 March 2026

JUDGMENT SENT TO THE PARTIES ON

29 April 2026

FOR THE TRIBUNAL OFFICE