



EMPLOYMENT TRIBUNALS

Claimant: Jitendra Kumar Baachal

Respondent: Royal Free London NHS Foundation Trust

Heard at: Watford Employment Tribunal

On: 20 March 2026

Before: Employment Judge Young

Representation

Claimant: Mr Brij Mohan (lay representative)

Respondent: Ms Patricia Leonard (Counsel)

PRELIMINARY HEARING STRIKE OUT JUDGMENT

1. Acting in accordance with rule 38(1) of the Employment Tribunals Procedure Rules 2024, the Tribunal strikes out the Claimant's complaint of victimisation claim on the grounds that there is no reasonable prospect of success.
2. The Claimant's complaints of harassment related to disability and direct disability discrimination are not struck out.

REASONS

1. The Claimant was employed by the Respondent, a hospital and NHS Trust, as an Occupational Therapist, from 23 October 2023 until 15 July 2024. Early conciliation started on 6 April 2025 and ended on 8 April 2025. The claim form was presented on 8 April 2025.
2. I heard submissions from the Respondent in respect of their application and the Claimant's rebuttal submissions, which were consistent with the written submissions submitted by both parties.
3. In essence, the Respondent's application was based on the Claimant's case that the reason for dismissal was discrimination, which is

unsustainable in the face of the Respondent's position that they received an anonymous tip that the Claimant's qualifications were fraudulent before the Claimant started work. However, the Claimant's dismissal discrimination complaint is not a complaint that the Claimant brings, and it is a matter for the trial judge to determine whether the Claimant's alleged fraud has anything to do with the Claimant making allegations of discrimination. I must take the Claimant's claims at their highest, and at their highest, the Claimant is not bound to fail in his claim. The Claimant argued that the issue of honesty is a matter for trial where there are disputed facts. Whilst the Respondent urged me to make a preliminary assessment of the facts regarding the Claimant's credibility, I consider that this is something for the Employment Tribunal hearing the case in full to determine not for me to determine particularly where it is not possible to assess the extent to which the Claimant's alleged dishonesty impacts on his allegations of harassment and direct disability discrimination without having heard evidence.

4. I was referred to the law regarding strike outs, and I consider the law in respect of no reasonable prospect of success strike outs concerning rule 38(1) (a) of the Employment Tribunal Procedure Rules 2024, *"that is scandalous, or vexatious or has no reasonable prospect of success"*.
5. The case law warns Employment Tribunal that caution should be exercised if a case has been badly pleaded, for example, by a litigant in person whose first language is not English. (See Judge Eady at paragraph 21 Mbiusa v Cygnet Healthcare Ltd UKEAT/0119/18 (7 March 2019, unreported)). This is exactly the situation in this case. I spent a significant amount of time teasing out the Claimant's case from him directly, as his representative was unable to clarify the Claimant's claim. HHJ Eady adds that *"taking the case at its highest may well ignore the possibility that it could have a reasonable prospect of success if properly pleaded"* (see paragraph 21). In summary in Mbiusa v Cygnet Healthcare Ltd UKEAT/0119/18 (7 March 2019, unreported) HHJ Eady held that in view of the lack of clarity as to the claimant's arguments, the proper course of action would be to establish more precisely what the claimant was arguing, if necessary make amendments and then, if still in doubt about chances of success, make a deposit order.
6. As Simler J explained in Zeb v Xerox (UK) Ltd UKEAT/0091/15 (24 February 2016, unreported), *"the question of what inferences to draw forms part of the critical core of disputed facts in any discrimination case"* (see paragraph 21), as do the Respondent's explanations for alleged less favourable treatment and investigation of this is required (see paragraph 23)
7. I cannot say that the Claimant's claim put at its highest has no reasonable prospect of success, the Respondent accepts that enquiries were made about the Claimant's disability as they considered that the Claimant had misled them about his disability following the information provided in the pre-employment assessment [44]. The anonymous email highlighted that the Claimant had misled the Respondent about his disability [209-211].

These are disputed matters as to what was said and the context in which it was said, and what inferences may therefore be drawn in relation to the harassment and alternative discrimination complaints. The same is also true for the allegation of direct disability discrimination regarding the OH assessment. The Claimant said that the OH consultant said things about his disability that he had to challenge; inferences need to be drawn, which is not for me to do but for the Employment Tribunal at trial. It is for those reasons I do not strike out the complaints.

8. However, I do strike out the Claimant's complaint of victimisation, the Claimant, although referring to retaliation in the claim form, did not in the claim form refer to any protected acts. When the Claimant was asked, the Claimant said that he did not know why the Respondent retaliated against him by reporting him to NHS Fraud. The Claimant added that they thought he had carried out fraud, but he didn't. Without any protected acts, the Claimant's victimisation complaint cannot succeed. It is for that reason I strike out the complaint.

Approved by:

Employment Judge Young

Dated 20 March 2026

JUDGMENT & REASONS SENT TO THE PARTIES ON
11 May 2026

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FOR THE TRIBUNAL OFFICE

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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Recording and Transcription

Please note that if a Tribunal hearing has been recorded, you may request a transcript of the recording, for which a charge may be payable. 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:

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[directions/](#)

Case No: 6012079/2025