



EMPLOYMENT TRIBUNALS

Heard at: London South **On:** 19 May 2026, 2:15pm

Claimant: Mr P Phillips

Respondent: Mr C Thornicroft

Before: Employment Judge Ramsden

Representation:

Claimant Non-attending

Respondent Mr Cowley, litigation consultant

JUDGMENT

1. The Claim is dismissed pursuant to Rule 47 of the Employment Tribunal Procedure Rules 2024.

REASONS

2. The Claimant started working for the Respondent (a fresh produce and catering supplier) on a date in July of either 2023 or 2024 (the Parties disagree about that).
3. The Claimant's employment terminated on 7 May 2024.
4. After a period of ACAS Early Conciliation that commenced on 30 July 2024, an Early Conciliation Certificate was issued by ACAS on 5 August 2024.
5. The Claimant presented a Claim Form to the Employment Tribunal on 2 September 2024.
6. The Claim Form appeared to present complaints of:
 - a) Unfair dismissal;

- b) Breach of contract;
 - c) Age discrimination; and
 - d) Disability discrimination.
7. The Respondent responded to the Claim within the statutory deadline, resisting the Claim.
8. On 13 January 2025, the Tribunal wrote to the Parties:
- a) Notifying them that a Preliminary Hearing for Case Management had been listed for 2pm on 24 September 2025;
 - b) Notifying them that a Final Hearing had been listed for 28 to 30 September 2026;
 - c) Ordering the Claimant to provide clarity on the impairments he relies upon as disability by 10 March 2025, disability-related information by 3 March 2025, and disability-related documentary evidence by 3 March 2025;
 - d) Ordering the Respondent to clarify its position on whether the Claimant was disabled at the relevant times by reason of the impairments he relies upon within 10 days of receiving the information and evidence from the Claimant; and
 - e) Warning the Claimant that he appeared to the Tribunal not to be entitled to bring his complaint of unfair dismissal given he had less than two years' service, and inviting him to write to the Tribunal by 3 February 2025 with any reasons why his complaint of unfair dismissal should not be struck-out.
9. The Respondent wrote to the Tribunal on 14 August 2025:
- a) Informing the Tribunal that the Claimant had not sent any representations as to why his unfair dismissal complaint should not be struck-out;
 - b) Informing the Tribunal that the Claimant had not responded to any of the Tribunal's disability-related directions; and
 - c) Applying for the Claim to be struck-out for non-compliance with Tribunal Orders pursuant to Rule 38(1)(c) of the Employment Tribunal Procedure Rules 2024 (the **ET Rules**).
10. The Claimant wrote to the Tribunal on 18 August 2025:
- a) Stating that he was very unwell with depression, and had been for nearly two years, and was struggling to comply;
 - b) Stating that he has type 2 diabetes, and thinks he may have ADHD
 - c) Stating that he had not taken notice of the previous Orders; and
 - d) Clarifying that his unfair dismissal complaint was that he had been dismissed for asserting a statutory right.

11. On 2 September 2025 the Tribunal struck-out the Claimant's unfair dismissal complaint because he did not have two years' service.
12. On 3 September 2025, the Claimant wrote to the Tribunal repeating that his unfair dismissal complaint related to his assertion of a statutory right, and adding that a second reason he thinks he was dismissed was for health and safety reasons.
13. The Preliminary Hearing for Case Management (listed on 13 January 2025) proceeded on 24 September 2025 before EJ Wilson.
 - a) The Claimant did not attend, and nor did he provide any prior explanation for his non-attendance or request for postponement. The start time of the hearing was delayed so the Tribunal Clerk could try to contact the Claimant, but they were unable to get through. The hearing started 30 minutes after the scheduled start time.
 - b) Little progress could be made in that hearing in the Claimant's absence.
 - c) EJ Wilson's Orders:
 - (i) Obligated the Claimant to confirm the identity of the Respondent;
 - (ii) Altered the dates for the previous Orders in relation to the provision of disability-related information and evidence by the Claimant;
 - (iii) Obligated the Claimant to respond to the Respondent's strike-out application within 14 days of the date EJ Wilson's Orders were sent out to the Parties; and
 - (iv) Set out clear warnings that if he failed to comply with those Orders, or if he failed to attend the next Case Management Hearing EJ Wilson listed, it was likely that his Claim would be struck out, either pursuant to Rule 38 of the ET Rules for non-compliance, or pursuant to Rule 47 for non-attendance.
14. On 3 November 2025 the Respondent wrote to the Tribunal again, stating that the Claimant had failed to comply with EJ Wilson's Orders to confirm the identity of the Respondent, for the provision of disability-related information and evidence, and for a response to the Respondent's strike-out application. The Respondent renewed its application for the Claim to be struck-out for failure to comply with Tribunal Orders under Rule 38(1)(c).
15. A Consultant Psychiatrist then treating the Claimant wrote to the Wales Employment Tribunal on 19 November 2025, noting that the Claimant was then an in-patient being treated in a hospital in Swindon for depression, and was expected to be discharged by early December 2025. That letter noted that:

"He should make further improvements in the next two months and be able to attend the tribunal in the New Year, although this process is likely to trigger ongoing anxiety."

16. On 11 April 2026, the Tribunal wrote to the Claimant again, warning him that it was considering striking out his Claim for non-compliance with Tribunal Orders, and for failure to actively pursue the Claim. The Claimant was given until 25 April 2026 to object to that proposal or request a hearing at which he could do so.
17. No reply was received from the Claimant by 25 April 2026 (or, indeed, by the date of this judgment).
18. The Preliminary Hearing for Case Management relisted by EJ Wilson for today's date proceeded. The Claimant did not attend. The Tribunal Clerk telephoned the Claimant and left a voicemail, and sent him an email. The hearing was listed to commence at 2pm, and the start time was delayed while EJ Ramsden and the Respondent's representative waited to see if the Claimant would attend. The hearing commenced at 14:19.
19. In light of the Claimant's non-attendance, and of the fact that this is the second occasion when he has not attended, the Employment Judge determined that it was appropriate to dismiss the Claim for non-attendance.
20. The Final Hearing listed for 28 to 30 September 2026 is vacated.

Employment Judge Ramsden

Date 19 May 2026

JUDGMENT AND REASONS SENT TO THE PARTIES ON
22 May 2026

For the Tribunal Office

P Wing

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