



EMPLOYMENT TRIBUNALS

Claimant: Ms R Thompson

Respondent: Currys Group Limited

Heard at: London South Employment Tribunal, Croydon (by video)

On: 7 May 2026

Before: Employment Judge Abbott

Representation

Claimant: Mr C Ilangaratne, barrister, instructed by Bestway Solicitors

Respondent: Mr S Crawford, barrister, instructed by DAC Beachcroft LLP

JUDGMENT having been sent to the parties on 14 May 2026 (full reasons having been delivered orally on 7 May 2026) and full written reasons having been requested by the claimant in accordance with Rule 60(4D) of the Employment Tribunal Procedure Rules 2024, the following reasons are provided:

REASONS

1. These are my full written reasons for acceding to the respondent's application to strike out all of the complaints in the claim under Rule 38(1)(a) of the Employment Tribunal Procedure Rules 2024 because they have no reasonable prospect of success.
2. The claim comprised complaints of unfair dismissal, wrongful dismissal, unlawful deduction from wages (holiday pay arrears for the period 1 April 2023 to 31 March 2024), direct race discrimination (alternatively, harassment related to race) concerning the invite to a disciplinary hearing and subsequent dismissal, and direct age discrimination (alternatively, harassment related to age) concerning the invite to a disciplinary hearing and subsequent dismissal.
3. A draft list of issues had been prepared by the parties prior to the hearing setting out the pleaded complaints and, subject to adding the in-the-alternative harassment complaints that I permitted by amendment (without prejudice to this application), that list was agreed by the parties and

endorsed by me.

4. Rule 38(1)(a) provides:

“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— [...] that it is scandalous or vexatious or has no reasonable prospect of success [...]”

5. I was referred to appellate-level guidance on the proper approach to strike-out applications. I have particular regard to the general propositions summarised by HHJ James Tayler at paragraph 28 of *Cox v Adecco Group UK & Ireland & ors* [2021] ICR 1307, EAT, and (specifically in relation to discrimination cases) to the approach laid out by Mr Justice Mitting at paragraph 14 of *Mechkarov v Citibank NA* [2016] ICR 1121, EAT. I was also referred to the words of caution used by Lord Justice Underhill at paragraph 16 of *Ahir v British Airways Plc* [2017] EWCA Civ 1392. I took account of this guidance in reaching my decision.

6. Even if a specific ground for strike out has been established it remains a matter of discretion to decide whether to strike out (*HM Prison Service v Dolby* [2003] IRLR 694).

7. A core focus of the respondent’s application is matters of time limits. It is common ground that the claim was presented outside of the primary three-month time limit that applies for each of the complaints. Accordingly, the key question is whether there are reasonable prospects of the claimant succeeding on the fallback provisions, namely:

a. for the unfair dismissal, wrongful dismissal and unlawful deductions complaints that they were presented “*within such further period as the tribunal considers reasonable*” in a case where it “*is satisfied that it was not reasonably practicable for [the complaint] to be presented*” in time (sections 111(2)(b) and 23(4) of the Employment Rights Act 1996; regulation 7(c) of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994); and

b. for the Equality Act complaints, that they were presented within “*such other period as the employment tribunal thinks just and equitable*” (section 123(1)(b) of the Equality Act 2010).

Undisputed facts

8. The essential chronology of events around the time of the claimant’s dismissal up to the claim being presented is largely undisputed. The letter of dismissal was issued on 15 September 2023 and first came to the claimant’s attention on 23 September 2023. At that time, she was in Sierra Leone and was ill with malaria. She had a conversation with a senior store manager on 24 September 2023 and indicated an intention to appeal. The appeal was hand-delivered to the respondent on 29 September 2023 by the claimant’s partner. The appeal was ultimately scheduled to take place once the claimant has returned from Sierra Leone which she did on 4 December 2023. The hearing took place on 15 December 2023, and the claimant had Trade Union representation. The outcome letter was issued on 28 December 2023. The claimant commenced ACAS early conciliation on 10

January 2024, and the certificate was issued the same day. The claim was presented on 7 February 2024.

Submissions (in summary)

9. Mr Ilangaratne, who appears for the claimant, submits that whilst the claimant was in Sierra Leone, and even after her return, she was suffering from the effects of malaria which materially affected her ability to bring the claim in time. There is evidence of medical appointments in the papers, including a phone appointment on 12 December 2023 at [114] and a colonoscopy appointment on 10 January 2024 at [142]. He referred to the communication difficulties she was experiencing whilst in Sierra Leone due to financial difficulties and an ongoing coup. He also relied on the delay in the claimant being able to obtain legal advice, as opposed to assistance from a Trade Union representative. On that basis he says there are reasonable prospects of the claimant establishing that it was not reasonably practicable to bring her claim in time and that she did so in a reasonable period thereafter, and reasonable prospects of persuading the Tribunal that a just & equitable extension should be granted for the Equality Act complaints.
10. Mr Crawford, who appeared for the respondent, in particular focuses on the evidence as to what the claimant was able to do. She was able to instruct her partner to file her appeal against dismissal, which (he submits) indicates she could have done something similar in terms of preparing her claim. He notes that the claimant had Trade Union representative support for her appeal. She did recognise the need to contact ACAS and did do on 10 January 2024 but then did not present the claim until 7 February 2024 by which time she had legal representation. More generally, she should reasonably have been aware of the importance of time limits. In any event, her Equality Act claims in particular are on their face very weak.

The unfair dismissal, wrongful dismissal and unlawful deductions complaints

11. I deal with the unfair dismissal, wrongful dismissal and unlawful deductions complaints first. The initial question is whether there are reasonable prospects of the claimant showing it was not reasonably practicable for the complaint to be presented in time. 'Reasonable practicability' is a question of fact for the tribunal to determine. Lady Smith in *Asda Stores Ltd v Kauser* EAT 0165/07 explained it in the following words:

"The relevant test is not simply a matter of looking at what was possible but to ask whether, on the facts of the case as found, it was reasonable to expect that which was possible to have been done".
12. The onus of proving that presentation in time was not reasonably practicable is on the claimant – that is a duty "*to show precisely why it was that he did not present his complaint*" (*Porter v Bandridge Ltd* [1978] ICR 943, CA). Where illness is relied upon, medical evidence as to the condition and its effect on submitting the claim is not essential but is desirable (*Norbert Dentressangle Logistics Ltd v Hutton* EAT 0011/13).
13. I am not persuaded that the claimant has reasonable prospects of showing precisely why it was that she did not present these complaints in time in

order to meet the 'not reasonably practicable' test. In making that assessment I am taking the claimant's case at its highest. Whilst there is medical evidence that shows the claimant was suffering from malaria, that did not prevent her lodging an appeal (even when she was out of the country) nor fully participating in her appeal hearing, with the support of a Trade Union representative, 11 days after her return to the country. I am not persuaded that there is (or would be at a final hearing) evidential support for there being a real health barrier to the claim being presented in time.

14. The involvement of a Trade Union representative is also important because case law is clear that such representatives are generally assumed to know the relevant time limits and to appreciate the necessity of presenting claims in time. Even if the matter was not specifically discussed, the absence of advice or incomplete advice cannot render it not reasonably practicable to comply with the time limit in circumstances where the time limit can easily be discovered on the internet.
15. In those circumstances, I consider there are no reasonable prospects of the claimant persuading the Tribunal that it was not reasonably practicable to bring these complaints in time. I am satisfied that it is consistent with the overriding objective to strike-out those complaints in all the circumstances – there is no value to anyone (only wasted cost and effort) in allowing these substantive complaints to be pursued to a final hearing in circumstances where it is inevitable they will be dismissed on jurisdictional grounds.

The Equality Act complaints

16. Moving on to the Equality Act complaints. The Equality Act itself does not provide further guidance on how to apply the 'just and equitable' test, but there are various authorities which have laid out useful principles and points of guidance. There is a helpful distillation of relevant points in paragraph 10 of the decision of Elisabeth Laing J (as she then was) in *Miller & Others v The Ministry of Justice & Ors* [2016] UKEAT 0003_15_1503. As stated by Leggatt LJ (as he then was) in *Abertawe Bro Morgannwg University Health Board v Morgan* [2018] ICR 1194 at paragraph 19, factors which are almost always relevant to consider when exercising any discretion whether to extend time are: (a) the length of, and reasons for, the delay and (b) whether the delay has prejudiced the respondent (for example, by preventing or inhibiting it from investigating the claim while matters were fresh). The strength of the claim may also be a relevant factor (e.g. *Kumari v Greater Manchester Mental Health NHS Foundation Trust* [2022] EAT 132).
17. In this case, the delay is relatively short and the claimant's health issues and period out of the country do provide some explanation, albeit not a complete one. The degree of forensic prejudice to the respondent is relatively small given the relatively short delay.
18. However, what I do consider to be a particularly important factor in this case is the apparent weakness of the claimant's case. As Mr Crawford submitted, there really is very little offered by way of support for the claimant's race or age playing any part in the decision to take her to a disciplinary hearing and ultimately to dismiss her. At its highest, there is identification of a

comparator (for the age discrimination complaint) who was treated differently. But this is not enough: as stated by Lord Justice Mummery at paragraph 56 of *Madarassy v Nomura International Plc* [2007] EWCA Civ 33:

“The bare facts of a difference in status and a difference in treatment only indicate a possibility of discrimination. They are not, without more, sufficient material from which a tribunal “could conclude” that, on the balance of probabilities, the respondent had committed an unlawful act of discrimination.”

19. Nothing has been put forward that suggests this was related at all to her race or age.
20. In circumstances where lengthy further and better particulars have already been provided and the claimant is legally represented, one would expect something to have been put forward that would give me basis to consider there to be a reasonable prospect of the claimant shifting the burden on these complaints. However, there is nothing.
21. I am conscious I am dealing with this on a strike-out basis, through the lens of considering the possibility of the claimant persuading the Tribunal at a final hearing that it is just and equitable to extend time, and heeding the warning to be cautious not to strike-out discrimination claims where there are likely to be factual disputes. However, taking account of everything I have said, I am persuaded that the claimant does not have any reasonable prospect of persuading the Tribunal to grant a just & equitable extension for her Equality Act complaints in this case – essentially because there is a delay that is not fully explained in bringing claims that are fundamentally extremely weak.
22. I am satisfied that it is consistent with the overriding objective to strike-out the complaints in all the circumstances. As HHJ James Tayler put it in *Cox*, no-one gains from truly hopeless cases being pursued to a hearing.

Conclusion

23. Accordingly, my decision was that all of the complaints in the claim should be struck-out.

Approved by:

Employment Judge Abbott

Date: 3 June 2026

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