



EMPLOYMENT TRIBUNALS

Claimant: Mr Mohammed Suleman

Respondent: City of Bradford Metropolitan City Council

RECORD OF A PRELIMINARY HEARING

Heard at: Leeds (in public by videolink)

On: 22 May 2026

Before: Employment Judge R S Drake

Appearances

For the Claimant: In Person

For the Respondents: Ms F Mewies (Solicitor)

JUDGMENT

1. The Claimant's claims of unfair dismissal under Section 98 of the Employment Rights Act 1996 as amended ("ERA"), of unlawful discrimination (because of disability, age and/or marital status) under the Equality Act 2010 ("EqA") are **struck out** under Rule 38(1)(a) of the Employment Tribunals Rules of Procedure 2024 as amended ("the Rules") as having been found to have no reasonable prospect of success and also under Rule 38(1)(c) because the Claimant has not complied fully with Case Management Orders promulgated by the Tribunal on 19 January 2026. The claims for the making of alleged malicious, vexatious and false allegations against him and misrepresentations about him are also struck out on the same basis for lack of statutory jurisdiction to bring such claims before the Employment Tribunal

SUMMARY REASONS

2. I refer to the parties as “C” and “R” respectively. I refer to documents in a 75 page Bundle prepared by R as “P1 – 75”.
3. I took detailed account of a number of things as follows:-
 - 3.1 C has hearing difficulties but unlike the last Preliminary Hearing before EJ Singh on 20 March 2026, today he had remembered to bring his hearing aids – nonetheless I took special care to ensure he could hear and understand the procedure;
 - 3.2 C has suffered a stroke in the recent unspecified past – I took special care to ensure that if the effects of this inconvenienced him or caused him problems, he could take time-outs to collect his thoughts and respond to questions when needed.
4. I heard detailed argument from both C as a Litigant in Person and from Ms Mewies for R. I recognised and noted that though C needed detailed explanation by me of the law underpinning his claims and its limitations with regard to his sense of grievance against R, he had not taken legal advice during preparation for presenting his claims and had resorted to AI for document drafting purposes.
5. After full submissions and guidance from me as to the matters for C to concentrate upon and focus, I reached my conclusions after deliberation before giving reasons orally in short form. These reasons are therefore summary and take precedence over what I explained orally on the day. I recognise and applaud the work done by both sides and commend their earnest persuasive efforts.

Issues to be determined.

6. The specific questions I was charged with determining were as set out in paragraph 3 of the Case Management Orders made by EJ Singh on 20 March 2026. I break them down as follows and noted that the parties agreed this subdivision and augmented them with consideration of whether C had established disability :-

Issue 1 – On R’s application dated 7 May 2026 (PP54-56), C’s claims of discrimination (in respect of disability, age and marital status) and his claims of unlawful deduction from wages and holiday pay, and finally his more amorphous generalised complaints (under absent recognisable statutory bases), should all be struck out as having no reasonable prospect of success ;

Issue 2 – To clarify C’s claims, as R argued that as pleaded in the extensive claim form and supporting Grounds of Complaint (PP4-22), there was a lack

of particularity and clear description of connection between any protected characteristic as defined by Section 6 EqA and the various causes of complaint C wishes to pursue as what he believed were justiciable causes of action;

Issue 3 – What further Case Management Orders would be necessary to prepare the case for Final Hearing – this issue became partially redundant because of the Judgment set out above and my further comments made below. As all heads of claim are Struck Out other than claims in respect of unpaid wages and holiday pay (limited by the findings below) only that claim needs to be dealt with by a half day final attend hearing as listed below.

Findings

7. I base my findings on the bundle of documents (Pages 1 to 75 inclusive) produced to me today referred to by their page numbers which includes all of the evidence C seeks to rely upon to oppose R's Strike Out application. I am not trying the evidence which would be produced at a Final Hearing because my terms are limited to examination of the pleadings so far (PP4-22 and PP27-45) as such, other than to ascertain whether it supports C's arguments sufficiently to allow his claims to proceed to a Final Hearing.
8. I recognise that it is difficult for C to understand that though he harboured a strong sense of grievance about the way he was dealt with by R's staff, his claims can only be pursued in accordance with the legal framework underpinning the Tribunal's jurisdiction. I noted that initially C had sought to add as additional respondents every single employee of R with whom he had dealings and against whom he harboured a grievance about the way he was treated; I noted that EJ Wade had determined on 28 August 2025 that claims against such parties should be rejected leaving only the current R as a respondent.
9. Accordingly I analyse his claims and reach the following findings thus:-
 - 9.1 C had been employed since 16 October 2023 as a passenger transport service driver and that his employment came to an end on grounds of alleged lack of capability on 24 July 2025 and thus he did not have two years qualifying service under section 108 ERA to be able to pursue an unfair dismissal claim; The balance of his claims did not fall within sections 103-104 ERA as being bases for claiming automatic unfair dismissal and thus his claim of ordinary unfair dismissal has never had any reasonable prospect of success;
 - 9.2 C Had applied on 24 May 2024 for leave of absence from work on grounds of bereavement relating to the death of his father-in-law; He was granted half a day but it was common ground that he did not intimate that he would need any longer, and yet he did not tell R's staff that he intended to go to Pakistan and nor did he tell them that his father-in-law on the evidence before me had died as long ago as 2 October 2021; Thereafter,

Rs staff had difficulty making and maintaining contact with C and sought to take him through capability procedure particularly as they were concerned that he had had a stroke but not advised DVLA of this fact, which could of course prejudice his ability to do the job for which he was engaged; Hereafter, C takes exception to the way that capability and grievance procedures were conducted by Rs staff;

9.3 On multiple occasions throughout this hearing I sought to encourage C to show me where in his claim form or Particulars of Claim he was making any assertion that the way he was treated in the capability and grievance procedures was in any way related to or because of his alleged disability, his age or his marital status; I have concluded that C was completely unable to show any assertion of any such connection, but that he thought that the because he perceived subjectively that he was treated badly in the capability and grievance process, this must give him an automatic right to pursue not only an unfair dismissal claim but also his discrimination claims; I had to work hard to seek to disabuse him of this incorrect assumption;

9.4 On further discussion with C and examination of the way he pleaded his case, and on the basis of R agreeing this pleading, I can accept that C has pleaded a potentially valid claim, subject to evidence, that he has accrued but not being paid wages and holiday pay for a period of five days; I have set a hearing date for so relatively modest a claim in value, bit I am confident that the parties will try resolve this difference; If unable to do so, they have the longstop of a short hearing a date.

Relevant Statute Law and its application

10. For the sake of completeness, I set out below the basis upon which I had to consider the position as far as set out in Rule 38(1) of the Employment Tribunals Rules of Procedure 2024 as amended ("The Rules"): -

"At any stage of the proceedings, either on its own initiative or on the application of a party, a tribunal may strike out all or part of a claim or response on any of the following grounds –

- (a) that it ... has no reasonable prospect of success - (*my emphasis*) ;
- (b) ... (c) ... (d) ... (*not relevant*);"

Case Law cited and/or considered in relation to strike out issues.

11. I explained to C the effect of Langstaff J's Judgment in the EAT in **Chandhok v Turkey [2015] EAT/0190/14/KN**. I derive from this Decision the principle that:-

"The claim, as set out in the ET1, is not something just to set the ball rolling, as an initial document necessary to comply with time limits but which is otherwise free to be augmented by whatever the parties choose to add or subtract merely upon their say so. Instead, it serves not only a useful but a necessary function. It sets out the essential case. It is that to which a Respondent is required to respond. A Respondent is not required to answer a witness statement, nor a document, but the claims made – meaning, under the Rules of Procedure 2013, the claim as set out in the ET1."

Langstaff J referred to what was at that time Rule 37 of the 2013 Rules, the equivalent provision being now Rule 38 of the current 2024 Rules. I note there is no material change. The point is the same. The effect in the present case of this guidance is that I must address the question of what is to be considered in a Rule 38 Application and that it is what is set out by C in, and to be seen through the prism of his Pleadings, not what evidence he proposes to test at Final Hearing.

12. Neither side referred me to it, but I took account of the Court of Appeal's finding in **Swain v Hillman [2001] 1 All ER 91** in which it was held that a Court (or Tribunal in this case) must consider whether a party " ... has a realistic as opposed to fanciful prospect of success ..." in the context of assertions, as in this case, that the Claimant's case has no, as opposed to little prospect of success. In this case there is clearly on my examination no conflict of pleading on the key points such as would necessitate ventilation of evidence necessary to make factual findings on contested allegations at a full hearing. On the Claimant's own pleadings, there are no such factual disputes to be determined one way or another at a full hearing. I concluded that much less than even a fanciful prospect of success.
13. **A v B (and another) [2011] ICR D9, CA** - In this case the Court of Appeal held that a Tribunal was wrong to find a claim had no reasonable prospect of success basing this conclusion on a finding that on proper analysis it had "more than a fanciful prospect" of success. From this I derive a distinction between "no prospect" and no more than a "fanciful prospect." If a point is clear cut to show that a case as pleaded is such that disability is established or the expressing of public interest disclosures and no clear pleading shows any case of detriment, then C's claims **MUST** be doomed to fail. I conclude that this is a clear example of no prospect as opposed to no more than a fanciful prospect of success.
14. **Anyanwu (and another) v South Bank Students' Union [2001] ICR 391.** - In this case the House of Lords highlighted the importance of not striking out discrimination claims except in the most obvious cases as they are generally fact sensitive and usually require full examination to make a proper determination. I conclude this is an obvious case where Rule 398 can and should be applied.

15. This was followed by the Court of Appeal's decision in **Community Law Clinic Solicitors v Methuen [2012] EWCA Civ 571**, in which it was held that and employee's claim for age discrimination should not be struck out because the case required further examination of the facts so as to properly consider whether age discrimination could be inferred. The Claimant's case before me today as currently pleaded is easily distinguishable from **Methuen** because though the claimant in that case had pleaded acts of discrimination or detriment clearly, he had not pleaded sufficiently any form of argument to show that his causes of action established or that he faced detriment **because of that** or because of some other cause such as having made a health and safety complaint nor of having made a public interest disclosure. He said clearly that his claims overall are all bound up with the disability complaints, so if he cannot pursue that line of argument much of what he otherwise relies on must fail.
- In **Ezsias v North Glamorgan NHS Trust [2007] ICR 1126**, the Court of Appeal again held that it will only be in an exceptional case that a claim will be struck out as having no reasonable prospect of success when the central facts are in dispute. However, in the current case, the Claimant's claims as pleaded do not go anywhere far enough to establish viable and triable claim in respect of whistleblowing.
16. I considered the balance of prejudice facing C if I struck out his claims leaving him with no further way of arguing here his views as to what has happened, or to R if the case were not struck out causing them to have to devote considerable time and energy to meeting claims which on what I have seen and heard today, and also based on the Claimant's admissions, has no prospect of success.
17. On this analysis, I conclude that the balance of prejudice favours R leading me to conclude it is right I should strike out the unfair dismissal and all the discrimination claims. If C has pursuable claims elsewhere, then he may look in that direction – it is not for me to say he should do so, but that is not a justification for not striking out doomed heads of claim as currently pleaded and further insufficiently particularised as against these Respondents.
18. I had cause at more than one point to remind C that simply because he asserted discrimination and believed he had adduced enough evidence to prove what he said, this did not amount to being a basis for me to assume that connection between a protected characteristic and capability and grievance procedures was established, but that it could only be determined on a full merits test of evidence at a Final Hearing; I explained that a Rule 38 Application addresses the claims **as pleaded**, not what C believes subjectively he could prove. He asserted vociferously and frequently the opinion that because full evidence disclosure had not yet been completed, this was an implicitly absolute bar to the making of a Rule 38 Application and/or finding of no or little prospect of success as required by Rules 38 and 40. I had to explain that by their very nature, Applications under Rules 38 and/or 40 can be made at any point in development of a case after Pleadings

Conclusions

19. For all the reasons set out above, I conclude that paragraph (a) of Rule 38(1) is engaged and empowers me to strike out the discrimination claims in accordance with Rule 38. Therefore, I find that I have no alternative but to dismiss the claims of failing to make reasonable adjustments discrimination (because disability at the relevant time is not established) and the claims of detriment caused by making protected qualifying public interest disclosures.
20. The Final Hearing of the balance of claims limited to unpaid wages and holiday pay will take place at Wests Gate, 6 Grace Street, Leeds, LS1 2RP on **4 September 2026** before me commencing at 10am and is listed for three hours.

Employment Judge R S Drake

Signed 22 May 2026

Note

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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