



EMPLOYMENT TRIBUNALS

Claimant: Mr B Gibson

Respondent: Laser Expertise Limited

Heard at: Nottingham by CVP

On: 9 June 2026

Before: Employment Judge Victoria Butler (sitting alone)

Appearances

For the Claimant: In person

For the Respondent: Ms L Reed, Counsel

JUDGMENT AT A PRELIMINARY HEARING

1. The claims of automatically unfair dismissal and discrimination are struck out because they have no reasonable prospect of success.
2. The pay claims are not affected by this judgment and will proceed.

REASONS

Written reasons having been requested in accordance with Rule 60 of the Employment Tribunals Procedure Rules 2024, the following reasons are provided:

Background

1. The Claimant brings claims of automatically unfair dismissal, discrimination, notice pay, holiday pay and arrears of pay.
2. The parties attended a preliminary hearing by telephone on 16 January 2026. The Claimant was ordered to provide further and better particulars of his claims

because they were not clear. In his originating claim he simply says that he was discrimination against without reference to a protected characteristic and provides no grounds for an automatically unfair dismissal claim. The Claimant provided the particulars as ordered within which he sets out the chronology of events.

Automatically unfair dismissal

3. The Claimant says in his further particulars that his dismissal was automatically unfair because it was: carried out without any disciplinary process, warnings, or investigation; based on inconsistent and shifting reasons; and closely connected in time to his daughter's birth and her ongoing medical care. He also says "*the Respondent had accepted my family circumstances throughout my employment and offered me permanent work with full knowledge of them. The timing and manner of my dismissal demonstrate that it was not fair or genuine*".

Discrimination

4. The Claimant says in his further particulars that his claim is one of discrimination, including direct discrimination, and the established principle of discrimination by association. He explains: "*The Respondent was aware that my daughter required significant medical care following her birth. I was treated unfavourably, culminating in my dismissal on 30 June 2026, during the period when my daughter was still receiving hospital care. The comment made during the dismissal meeting and the timing of the dismissal demonstrate that my association with my daughter's medical needs influenced the Respondent's treatment of me. I believe this amounts to unlawful discrimination under the Equality Act 2010*".

The hearing today

5. The Claimant further explained his claim to me today as follows: He began working at the Respondent through an agency and was hired directly in March 2025. At the time, his wife was pregnant with complications, and the Respondent was aware of this when taking him on permanently.
6. The Claimant initially worked on rotating shifts but in March 2025 was moved to permanent AM shifts to cover a colleague's role whilst they were abroad. On 8 April 2025, the Respondent gave him a minimum pay increase, and he asked if it could be increased to reflect his additional responsibilities. This is when he says things went '*sideways*' and six days later he was moved back to rotating shifts without consultation.
7. The Claimant's daughter was born on 17 May 2025 and spent a short time in Neonatal Intensive Care. The Claimant did not qualify for paternity leave and it was agreed that he would take two weeks off unpaid between 16 May 2025 and 2 June 2025. The Claimant takes no issue with this.
8. When the Claimant's daughter was discharged from hospital, he took six days off during June 2025 to attend four planned hospital appointments with her, along

with his partner. Two other visits were unplanned because his daughter had a fever and they took her to A&E. The Claimant's partner could not take their daughter alone because she does not drive and cannot use public transport or a taxi because of OCD and panic attacks. He says that he reported these absences to his line manager, Mr Barker, and other managers in Mr Barker's absence. However, I noted that the further particulars refer to '*ongoing hospital appointments*' with no mention of unexpected hospital attendance. There is no reference to his partner's difficulties either.

9. On 30 June 2025, the Claimant was called into a meeting with no notice and dismissed due to "*significant changes in the business*". The Claimant acknowledges that about ten people were 'let go'. The Claimant subsequently asked for written reasons for his dismissal and was told "*we note for your awareness that the decision followed concerns regarding your repeated failure to comply with reasonable management instructions and your failure to follow the company's absence reporting procedures*".

The law

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

"The Tribunal may, on its own initiative or on the application of a party, the Tribunal may 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;

....."

Conclusions

Discrimination

11. On discussion with the Claimant, it was apparent that his daughter did not have a protected characteristic. My assumption was that the characteristic relied on was disability, but when I asked about his daughter's health he confirmed "*no, it's not a disability*". She was discharged from Neonatal Intensive Care and is well albeit subject to follow up appointments and monitoring. Absent a protected characteristic any claim for discrimination by association with her must fail and I struck it out.

Automatically unfair dismissal

12. The Claimant did not qualify for paternity leave or parental leave so was not dismissed for a reason relating to that. On the contrary, the Claimant was grateful to the Respondent for letting him take the two weeks' leave on an unpaid basis. The Claimant had not exercised his right to neonatal care so was not dismissed for a reason relating to that either.

13. The time off for dependant's provisions did not apply in relation to his daughter's hospital visits because they were pre-planned and therefore not unexpected or sudden. I arrived at this conclusion because the Claimant makes no reference to emergency visits in his claim form or further particulars and I must assess the claim as pleaded, not based on a change of position.
14. Furthermore, the Claimant's partner was also available to take their daughter, and he makes no reference to her difficulties in his documents either. They both had opportunity to plan for those visits ahead of time and there was no suggestion that there was no-one else available to help out.
15. The Claimant subsequently submitted that his wife was a dependant. This was a change of position, but it was not her that required unexpected care in any event.
16. I also had regard to the Respondent's rationale for dismissing the Claimant. He was dismissed for failure to follow management instructions and report his absences, not because of the time off itself. It did not know the reasons for his absence because he did not tell them. Whilst the Claimant disagrees with this and says that he did report the absences, there is no evidence to indicate that the Respondent dismissed him for attending his daughter's hospital appointments.
17. For these reasons, I was satisfied that the automatically unfair dismissal claim has no reasonable prospect of success and I struck it out.

Approved by:

Employment Judge V Butler

Dated: 11 June 2026

Sent to the parties on

...20 June 2026.....

For the Employment Tribunal

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Useful information

- i. All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

Recordings

- ii. 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. You can access the Direction and the accompanying Guidance here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>