



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant: Mr Tadeusz Peczek and

Respondent: GXO Logistics UK Limited

HELD AT Birmingham (by video)

ON 29 June 2026

EMPLOYMENT JUDGE Choudry

Representation:

For the claimant: In person

For the respondent: Mr B Jangra (counsel)

Interpreter: Ms I K Szamfeber

JUDGMENT ON PRELIMINARY HEARING

The claimant's application for permission to amend his claim so as to add a complaint of automatic constructive unfair dismissal is refused.

REASONS

1. By a claim form dated 17 February 2025 the claimant, acting on his own, submitted a claim for race and pregnancy/maternity discrimination, whistleblowing and other payments. The claim for pregnancy/maternity discrimination was withdrawn at a preliminary hearing (case management) held on 11 February 2026 before Employment Judge Edmonds.
2. During the preliminary hearing the claimant indicated that he wished to bring a claim for constructive dismissal. This was not something that was pleaded in his claim as such an amendment would be required. It was pointed out to the claimant that he did not have sufficient service to bring a claim for ordinary constructive dismissal. However, the claimant indicated that his resignation was

linked to what he saw as retaliation for his complaints about the matters in his a separate claim that he had brought against Challenge Recruitment who had employed him and supplied him to the respondent before he became a permanent employee of the respondent. As such, Employment Judge Edmonds was mindful that this could raise issues as to whether there was a complaint of automatic unfair dismissal.

3. As such the claimant was ordered to write to the Tribunal and the respondent explaining exactly what he wished to add to his claim by 4 March 2026. This must include the exact details of what the respondent did that he says led to his resignation, and also any other matters that he wishes to rely on which are not in his claim form. Employment Judge Edmonds also explained to the claimant that one of the things the Tribunal will consider is whether the matters in the amendment application are out of time (noting that the claimant says that he resigned over three months before he submitted his agenda to the Tribunal containing his amendment application on 30 January 2026, and even that amendment application only included details of certain matters).
4. The respondent was ordered to sent its response to the claimant's amendment application to the claimant and the Tribunal setting out whether it objected to the amendment application and if so, on what grounds.
5. The case was also listed for an open preliminary hearing to consider (subject to the discretion of the judge with conduct of the hearing) the claimant's application to amend and for the issuing of further case management orders.
6. Ahead of the hearing I was presented with a bundle of 120 pages which both parties confirmed they had with them. This contained a witness statement from the claimant in support of his application to amend together with objections to the application to amend. Both of these were contained in the bundle before me.
7. Mr Jangra also informed me that his instructing solicitors had also filed a skeleton argument on behalf of the respondent. This had not found its way to me yet but the claimant confirmed that he had received a copy although he had not had the chance to consider it yet. As such, we took a short adjournment to enable myself and the claimant to read this.
8. After the claimant had taken the oath, I asked the claimant a follow up question arising from his witness statement which was to check whether he had submitted any medical evidence to support his application as I had not seen anything. The claimant confirmed that he had not. Mr Jangra was also given the opportunity to put questions to the claimant during which the claimant confirmed that he had not submitted his application to amend earlier as he had thought he could attach it to his agenda to the last PH, he did not know he needed to do it earlier and had been concentrating on his health. The claimant indicated that he was not aware of the 3 month time limit although he accepted that he had access to the internet and could do research. The claimant also confirmed that he did not have any assistance in preparing the application to amend or for the Tribunal claim which he indicated that he had done himself.

Submissions on behalf of the Claimant

9. In his statement the claimant relied on 5 main grounds in support of his application to amend to claim to include a claim for automatic constructive unfair dismissal. The grounds were that:
 - 9.1 when he submitted his original ET1 in this claim he was still employed by the respondent and could not, therefore bring a claim for automatic constructive unfair dismissal;
 - 9.2 he was a Polish national and did not have any legal training. He completed his ET1 without any legal representation and with limited English.
 - 9.3 He resigned on 25 July 2025 because he felt that he could no longer continue working in the conditions that he was following the raising of complaints relating pay, overtime, health and safety and discrimination. At the time he did not fully understand that the circumstances of his resignation could form a separate legal claim for automatic constructive unfair dismissal for having made protected disclosures and discrimination complaints.
 - 9.4 After the termination of his employment he developed serious health problems including mental health difficulties and later had a medical diagnosis of lung emphysema and degenerative sclerosis. The claimant stated that these health problems together with his limited English made it harder for him to deal with legal matters quickly and to understand what amendments he should ask for.
 - 9.5 Some of the matters that he wished to add to his claim arose out of matter already submitted in his claim form, such as his second application for a team leader position and other matters had not occurred at the time he had
10. The claimant was asked whether he wished to make any further submissions in additions to those he had made in his witness statement but he did not wish to do so.
11. The claimant was also given the right of reply to the submissions made by Jangra but he did not wish to say anything further.

Submissions by the respondent

12. Mr Jangra referred me to his written submissions and also the objections raised by the respondent's solicitor. He submitted that the claimant was seeking to add a claim for dismissal, which is an entirely new factual and legal claim. It is entirely a new cause of action, which would require further and more extensive inquiry by the Tribunal than is already required.
13. Given the nature of the claim already pleaded, the additional claim added complexity with limited benefit. The claims already brought already provided a route to the same or similar remedies on the factual matrix already provided.

14. In seeking to rely on this claim, the claimant would be adding significantly to the factual matrix being allegations between February and July 2025, of which there is little detail to date. The Tribunal would need further detail in this regard, potentially even a further preliminary hearing.
15. Further that the Tribunal should consider prospects of the amendment when deciding whether to allow the amendment or not, and this would include the causal link between the allegations already pleaded (of which further information had been requested) and the dismissal. The prospects, he submitted, were low and causation was tenuous.
16. Mr Jangra also submitted that the Tribunal should have regard to time limits. In this regard it was submitted that the length of the delay was significant. The prejudice to the Respondent is substantial. The allegations already made, of which further details have been provided, were already stale. The cogency of evidence was likely to be vastly reduced for the Respondent already, this was especially important in a case such as this where the Tribunal will be required to determine the factual events which did or did not happen. Adding a further head of claim to the already pleaded claim significantly prejudiced the respondent in the circumstances.
17. The claimant had provided no real evidence as to why the dismissal claim could not have been pursued earlier. It was noted that the claimant had already brought a claim against the respondent and prior to that against the agency who originally supplied him to work for the respondent as such he was familiar with the process and was a sophisticated litigant.
18. It was also submitted that the claimant had not demonstrated why it was not reasonably practicable for his claim to be brought in time nor had he produced any medical evidence in support of his ill health. There was no reason why the claim could not have been brought in time. As such, the application to amend should fail.
19. Mr Jangra also referred me to a number of authorities including **Selkent Bus - v- Moore [1997] ICR 836**, **Vaughan v Modality Partnership Appeal No. UKEAT/0147/20/BA (V)**, **Galilee v The Commissioner of Police of the Metropolis [UKEAT/0207/16/RN** and **Reuters Limited v Mr Cole [2018] UKEAT/0258/17/1602, para 28** of which I have taken cognisance of.

Conclusions

20. In making my decision I have considered the documents to which I have been referred, the oral submissions made and have considered the cases to which I have been referred.
21. I then directed myself that I should apply the tests set out in **Selkent Bus v Moore [1996] I.C.R. 836** which require me to consider (1) the nature of application to amend; (2) the timing and manner of the application; (3) the applicability of time limits; and (4) the balance of prejudice. I also reminded

myself of the guidance provided in **Vaughan v Modality Partnership Appeal No. UKEAT/0147/20/BA (V)** in that the tests in Selkent were not a tick box exercise and that I needed to consider the balance of injustice and hardship to both parties when making my determination in relation to the application to amend. I also considered the Presidential Guidance, General Case Management issued in January 2018 which makes it clear that in deciding whether to grant an application to amend, the Tribunal must carry out a careful balancing exercise of all the relevant factors having regard to the interests of justice and the relative hardship that will be caused to the parties by granting or refusing the amendment.

22. Additional factors for the Tribunal to consider include the merits of the claim. It is not of course the Tribunal's function on an amendment application to decide upon the merits of the claim. However, a proposed claim may be obviously hopeless. That said, unless there is material to demonstrate the hopelessness of the case then it should otherwise be assumed that the case is arguable.
23. I am satisfied that the claimant's application to amend is not a relabelling exercise and constitutes a new cause of action.
24. In terms of the timing and manner of the amendment, the claimant has made an application to amend his claim more than 11 months after he issued the complaint and more than 6 months after his dismissal. Whilst the claimant refers to his poor health as a reason for not bringing his claim on time I have seen no medical evidence to corroborate this. The claimant may not be legally trained but he is an capable litigant in person who has been able to bring two previous claims on time and has been able to provide clear concise documents without any assistance.
25. I note that allowing the claimant to amend his claim would be with limited additional benefit, as the claimant's existing whistleblowing detriment, race discrimination and harassment claims already provide route to the same or very similar remedies on the same factual matrix. Therefore, permitting such amendment would only add complexity to the already existing claims for limited additional benefit. In contrast the respondent would be put to additional cost in preparing and filing an amended Response, would need to call additional witnesses whose evidence will be stale and resulting in a longer hearing causing further delays.
25. Taking into account the interests of justice and the relative hardship that will be caused by the granting or refusing the amendment, I am satisfied that greater hardship will be caused to the respondent if the application is granted. The claimant will not be left without a remedy as he has other claims before the employment tribunal with the same or similar remedies. As such this amendment is refused.

Approved by Employment Judge Choudry
29 June 2026

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:

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