



EMPLOYMENT TRIBUNALS

Claimant: M Wright

First Respondent: Tooth Club Op Co Limited

Second Respondent: F Taylor-Smith

Heard at: Reading (in public; by video)

On: 11 June 2026

Before: Employment Judge W Anderson

Appearances

For the claimant: In person

For the respondent: G Young (legal advocate)

JUDGMENT

1. The claimant's claim of constructive unfair dismissal is dismissed. The tribunal has no jurisdiction to hear the claim as the claimant was employed for less than two years and does not meet the requirements of s108 Employment Rights Act 1996.
2. The claim of disability discrimination is struck out under Employment Tribunal Rule 38(1)(a) because it has no reasonable prospect of success.
3. The claim of unpaid notice pay is struck out under Employment Tribunal Rule 38(1)(a) because it has no reasonable prospect of success.
4. The employer's contract claim is dismissed on withdrawal.

REASONS

Background

1. The claimant brings a claim of unfair dismissal, disability discrimination and unpaid notice pay. The background to this claim is set out at paragraphs 8, 9 and 10 of the order of EJ Laidler dated 3 February 2026 and is not repeated here.
2. In a judgment dated 6 May 2026 EJ Young found that the claimant is not disabled for the purposes of s6 Equality Act 1996.

Hearing

3. I received a hearing bundle of 114 pages including an index and the respondent's application to strike out the entire claim dated 22 May 2026. I also had sight of two decisions made by EJ Young on 9 June 2026. The first was a refusal to reconsider their decision of 6 May 2026 and the second a refusal of an application for anonymity from the claimant under Rule 49.
4. At the hearing the claimant confirmed that she did not intend to appeal the judgment of EJ Young and we agreed that there was therefore no reason why the strike out application could not now be considered. Both parties made oral submissions.

Relevant Facts

5. The claimant was employed by the respondent from 16 April 2024 until 22 March 2025.
6. The claimant resigned with immediate effect on 22 May 2025. The claimant did not work notice.
7. On 6 May 2026 EJ Young found that the claimant was not disabled for the purposes of s6 Equality Act 1996.

Submissions

8. Ms Young for the respondent relied on the respondent's application dated 22 May 2026 which is set out in more detail below. She added that there was no basis for continuing the claim now that the decision on disability had been made and that the notice pay claim was reliant on the unfair dismissal and discrimination claims.
9. Ms Wright said that she had a valid unfair dismissal claim as she relied on automatically unfair dismissal for a health and safety reason and due to making a protected disclosure. She said that the respondent had treated her egregiously and had breached the implied term of trust and confidence. She said that she objected to the implications in the judgment of EJ Young that she had not provided all relevant medical information. On this last point, I made it clear to the claimant that the reasoning behind the decision of EJ Young was not something that could be considered at this hearing nor was it relevant to any decision I had to make today.

Decision, Law and Reasons

10. Under Employment Tribunal Procedure Rules 2024:

Striking out

38.—(1) 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—

- (a) that it is scandalous or vexatious or has no reasonable prospect of success;
- (b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;
- (c) for non-compliance with any of these Rules or with an order of the Tribunal;

- (d)that it has not been actively pursued;
- (e)that the Tribunal considers that it is no longer possible to have a fair hearing in respect of the claim, response or reply (or the part to be struck out)

....

11. There is substantial case law relating to the strike out of claims under this rule but I have found that little of it was relevant to the decision I needed to make today. I did however keep in mind that strike out is a draconian step that should only be taken in exceptional circumstances, [*Mbuisa v Cygnet Healthcare Ltd EAT 0119/18*](#).

12. Under the Employment Rights Act 1996:

S94 The right

- (1) An employee has the right not to be unfairly dismissed by his employer.
- (2) ...

s108 Qualifying period of employment.

(1)Section 94 does not apply to the dismissal of an employee unless he has been continuously employed for a period of not less than two years ending with the effective date of termination.

(2) ...

(3) Subsection 1 does not apply if:

(a) ...

(c)subsection (1) of section 100 (read with subsections (2) and (3) of that section) applies

...

(ff)section 103A applies

13. S100 is a claim of unfair dismissal for a health and safety reason. S103A is a claim of unfair dismissal where the reason for dismissal is that the employee made a protected disclosure.

14. In an application dated 22 May 2026 the respondent sought strike out of the entire claim for the following reasons:

- a. Unfair dismissal - the claimant does not have the required length of service to bring a claim of this nature, and the tribunal does not have jurisdiction to hear it.
- b. Discrimination - The claimant has been found by the tribunal not to have been disabled for the purposes of s6 Equality Act 2010 during the time relevant to this claim and therefore the discrimination claim has no reasonable prospect of success.
- c. Notice pay: The claimant resigned with immediate effect. She did not work notice. As she does not have an unfair dismissal claim or a

discriminatory dismissal claim, there is no reasonable prospect of the claim for notice pay succeeding.

15. The claimant was employed by the respondent from 16 April 2024 until 22 March 2025. The claimant said in her submissions that the unfair dismissal claim was one of automatic unfair dismissal under ss100 and 103A Employment Rights Act 1996. It is not and when I asked her about this, she agreed that it was not in her claim form. I note that the words automatically unfair are used in the remedy section of the grounds of claim but there is no reference to health and safety issues or to protected disclosures. These were not matters raised with EJ Laidler at the preliminary hearing on 30 January 2026 and in the order resulting from the hearing EJ Laidler records the claim as being one of constructive unfair dismissal.
16. While I accept that the claimant sought to bring a claim that her dismissal was discriminatory, and that if a person is dismissed for a discriminatory reason that would be automatically unfair, that is not a category of automatic unfair dismissal in which the two years' service requirement is waived.
17. The tribunal has no jurisdiction to hear the claim of constructive unfair dismissal, and it is dismissed.
18. In a decision dated 6 May 2026, following a hearing on 29 April 2026, EJ Young found that the claimant is not disabled for the purposes of s6 Equality Act 1996. Where the claimant is not disabled for the purposes of s6 she cannot succeed in a claim that she suffered discrimination because of her disability in breach of s15 and 20 Equality Act 2010. I agree with the respondent that the claim has no reasonable prospects of success, and it is struck out.
19. The claimant resigned on 22 May 2025. She did not give notice and did not return to work after that date. The claimant claims a three month contractual notice payment. I agree with the respondent that this claim has no reasonable prospect of success. The claimant did not work notice. The claimant does not have a claim for unfair dismissal so has no legal basis on which to ground a claim for notice pay where the notice was not worked. The claim for notice pay is struck out.
20. As all three heads of the claimant's claim have now been dismissed or struck out, the claimant's claim against the respondent is concluded.
21. After I had given oral judgment Ms Young confirmed on behalf of the respondent that it withdrew its employer's contract claim on commercial grounds.

Approved by:

Employment Judge W Anderson

11 June 2026

JUDGMENT SENT TO THE PARTIES
ON

20 July 2026.....
.....
FOR THE TRIBUNAL OFFICE

Notes

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.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. 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:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/