



EMPLOYMENT TRIBUNALS

Claimant: Ms Thurdy Campbell
Respondent: Lewisham and Greenwich NHS Trust
Heard at: London South Employment Tribunal via CVP
On: 06 July 2026
Case number: 2303596/2022
Before: Employment Judge M Da Costa sitting alone

ATTENDANCE AND REPRESENTATION

Claimant: Unrepresented and did not attend
Respondent: In person, and represented by Miss H Patterson of counsel

JUDGMENT

The judgment of the Tribunal is as follows:

Complaints of unfair dismissal contrary to section 94 of the Employment Rights Act 1996, and victimisation contrary to section 27 of the Equality Act 2010

1. The claimant's claims for unfair dismissal and victimisation are struck out in their entirety pursuant to rules 38(1)(b), (c) and (d) of the Employment Tribunal Procedure Rules 2024. In the alternative they would have been dismissed pursuant to rule 47 of those Rules.

Background

2. By an ET1 form presented on 12 October 2022 the claimant brought claims for unfair dismissal and race discrimination.
3. At subsequent proceedings, it was clarified that the remaining heads of claim were unfair dismissal and victimisation.
4. The case was listed for a trial of 4 days between 6 July 2026 and 9 July 2026.
5. On 30 June 2026 the respondent had made a written application to strike out the claimant's claims. The claimant was aware of that application because she emailed the Tribunal on 02 July opposing the application.
6. On 06 July 2026 the claimant did not attend. The Tribunal clerk emailed the claimant in the morning of 6 July 2026 on an email address that the claimant had been using as late as 02 July 2026, reminding her of the trial date starting today and asking for her to contact the Tribunal. The respondent's representative had a telephone number for the claimant, but it was decided that this should not be passed to the Tribunal for data protection reasons. However, at 10:53am on 06 July the respondent's representative telephoned the claimant. The call was not picked up but the representative left a message in these terms:

"this is [name] from Capsticks, you are aware you have an Employment Tribunal hearing today, we are at Employment Tribunal and the Tribunal is asking about your attendance, I need to know whether you intend to attend, please either respond to the email that the Employment Tribunal has sent you or call me back by 12 pm today, if we do not receive a response we intend to proceed with our claim for the strike out of your claims, [provides number to call back] and thanks."
7. There was no response from the claimant at all, either to the email that the Tribunal had sent or to the telephone message left by the respondent's representative.
8. The decision had been that it would be fair and appropriate to provide the claimant with a deadline of midday on 06 July 2026 to respond to the messages that had been left for her on that day, before the respondent should be allowed to proceed with the strike out application.
9. There was no response from the claimant at all, either to the email that the Tribunal had sent or to the telephone message left by the respondent's representative. Therefore, at midday the Tribunal re-convened and the respondent made submissions about its strike out application.
10. After having heard the respondent's submissions and taken into account the claimant's correspondence from the period before the hearing, I made the decision to strike out her claims in their entirety.

11. In relation to costs, the respondent indicated that it would be minded to pursue an application for the same but said that it would not be fair to do so without the claimant having been given an opportunity to make representations. I agreed. The respondent therefore indicated that it would make such an application by paper in due course.
12. Although I gave full and detailed oral reasons on 06 July at the same time as giving an oral decision, I indicated to the respondent that I would put those same reasons in the written record of the decision, in view of the claimant not having been present to hear them.

Reasons for the strike out decision

13. The respondent makes an application to strike out the claimant's case in its entirety under rule 38(1)(b) and (c) Employment Tribunal Procedure Rules 2024, and in the alternative to dismiss it under rule 47 or non-attendance of the C.
14. The relevant timeline is this:
 - (a) The claimant had made 8 previous claims under lead claim number 2300003/2020 for direct discrimination on the ground of race, harassment on the grounds of race and sex, and victimisation and detriment on the grounds of making a protected disclosure. Those were heard in a trial between 13 and 29 March 2023 where all the claims were unsuccessful.
 - (b) In relation to the claimant's ninth claim against the same respondent, on 10 December 2024 at a Preliminary Hearing Judge Fowell struck out the claimant's claims for automatic unfair dismissal under section 103A ERA 1996 and detriments under section 47B of that Act for having no reasonable prospect of success, issued a Case Management Order for the remaining complaints of unfair dismissal and victimisation, and issued a deposit order for those remaining claims that, based on findings made in the March 2023 trial, stated they had little reason prospect of success. The Case Management Order said at its paragraphs 27 and 34 in clear terms that the claimant was to provide a witness statement by 29 May 2026.
 - (c) On 18 March 2026 the Tribunal wrote to the parties notifying of a Dispute Resolution Appointment listed for 3 hours on 22 June 2026.
 - (d) On 22 June 2026 the claimant failed to attend without explanation or apology.
 - (e) On 27 May 2026 the Tribunal sent the parties a trial readiness check reminding of Case Management Orders including relating to witness statements and indicating in clear terms that failure to respond to these questions by 08 June 2026 may result in your claim or response being struck out for non-pursuit.
 - (f) On 22 June 2026 following the claimant's failure to attend at the Dispute Resolution Appointment and failure to provide a position statement prior to that

hearing, EJ Siddall wrote to the claimant ordering her to provide a witness statement by 4pm Friday 26 June. He said explicitly that the deadline was unlikely to be extended further unless there were exceptional circumstances, and that failure to provide a witness statement by this deadline may lead to the claim being struck out under rule 38 of the Employment Tribunal Rules of Procedure 2024 on the grounds either that there has been a failure to comply with a tribunal order or that the claim is not actively being pursued.

(g) Between 22 June and 30 June 2026 there was correspondence between the respondent and the claimant wherein the claimant failed to address the issue of the lack of a witness statement and therefore on 30 June the respondent submitted an app for strikeout. On 2 July 2026 C responded with an app to strike out the respondent's strikeout application. That email wholly failed to engage with the grounds for the respondent's strike out application and instead focused on general legal assertions unconnected with employment tribunal proceedings.

15. The respondent's application under rule 38 was based on the following submissions:

(a) The claimant's conduct in failing to attend the Dispute Resolution Appointment and today's hearing is wholly unreasonable, is deliberate and is not mistaken, and remains unexplained despite numerous opportunities for the claimant to do so.

(b) The claimant has failed to comply with clear and unequivocal Tribunal orders of 10 December 2024 and 22 June 2026.

(c) The claimant has been explicitly warned of the possible consequences of failure to provide a witness statement, and that this was the final chance to comply.

(d) The claimant is an experienced litigant in person and has demonstrated in numerous documents and previous conduct of litigation that she understands the Tribunal process and how to engage with it. There has been no suggestion that the claimant is unable to do so, or ill or incapacitated.

(e) Failure to attend two hearings and failure to comply with Tribunal directions is without explanation or apology.

(f) There is no suggestion that the claimant has not received the relevant Tribunal correspondence. She has responded to both the respondent and the Tribunal between the 22 June 2026 order of Judge Siddal and 2 July 2026 but none of her responses address the issues needing to be resolved for trial today.

(g) The claimant has frustrated the overriding objective.

- (h) As to saving expense the claimant has already put the respondent and the Tribunal to significant expense. The hearing of 22 June 2026 was entirely wasted. The Tribunal and respondent have sent several pieces of correspondence over and above what was necessary to attempt to get her to engage.
 - (i) If the hearing today is derailed, it is inevitable that this would cause excessive delay in a claim that dates back to July 2021 when the respondent started the disciplinary process and suspended the claimant.
 - (j) As to equal footing: it is clear that the balance of prejudice is to the respondent's ability to proceed and to know the evidence that the claimant intends to give, therefore there is substantial prejudice to the respondent's ability to defend its position.
 - (k) This is a position that the claimant chose to put the respondent in, and it is not proportionate to allow a person who is aware of the rules to show flagrant disregard without explanation and to give leeway that prejudices another party and takes up the time of the Tribunal, and there is no guarantee that the claimant will engage constructively going forwards even if given that leeway, because the claimant has engaged but not with the issues that need to be resolved.
 - (l) A lesser sanction is inadequate. To adjourn or postpone is to reward the claimant for unreasonable conduct. An unless order would serve no purpose because in any event that would require a need to adjourn possibly to a day far in the future. The only logical conclusion to draw is that the claimant has demonstrated that she is unwilling to participate in a constructive way, to move forward and dispose of the case in the way required. Case Management Orders have been breached in an unconstructive way, and so further Case Management Orders would likely not be effective. There are no apparent terms for further case management orders that would be effective in moving the case forward in a timely and cost effective way.
 - (m) This is the 9th claim that the respondent has been required to defend by this claimant. The current deposit order says there is little prospect of success.
 - (n) For all these reasons, this is a case that meets the rare and exceptional threshold where a strike out app is in the interests of justice and in the interests of the overriding objective, and is a proportionate way of dealing with the matter
16. I agreed with the respondent's submissions above.
17. It was clear to me from the history of this and linked previous proceedings that the claimant was more than capable of participating in these proceedings satisfactorily, including in understanding the legal position (see for example her response to the internal disciplinary proceedings which contained all the relevant law) but that she

has simply chosen not to, in a manner that can only be described as deliberately obfuscatory.

18. It was clear to me, and indeed beyond doubt and beyond argument, that the claimant had breached orders of the Tribunal without reason or justification, and had conducted her case in a manner that had made it impossible for the case to be fairly disposed of today.
19. The respondent reminded me of the need to take into account the guidance in the case of *Blockbuster Entertainment Ltd v James* [2006] IRLR 630, CA which held that an order to strike out is draconian and therefore the Tribunal must exercise it with caution, considering overriding objective and proportionality.
20. I take that case into account.
21. It was clear to me that the respondent had been put in a position on 06 July 2026 where they were incapable of defending their case fairly because they did not know the basis on which it was advanced against them.
22. It was also clear to me that the balance of prejudice in adjourning, in terms of costs, time and witness recollection, would weigh disproportionately on the respondent.
23. This was especially so in the context that the claimant had already brought 8 cases against the respondent on substantially similar grounds which had been unsuccessful, and it is very difficult to see how the claimant would succeed in this 9th case given that her victimisation and unfair dismissal cases would rest on a core factual matrix that had been disproven already in findings of the previous Tribunal by which I am bound. I could not see how in those circumstances it would be proportionate to devote further time and cost to proceedings where the claimant had failed to put her case in any comprehensible way. The previous strike-out and deposit orders made this clear.
24. I also agreed that, given the history of the claimant's conduct thus far in the case, there was little to no prospect that she would engage meaningfully in the future. Thus, the prejudice that the respondent found themselves in on 6 July 2026 would in my view likely have been repeated and multiplied in the future, were I to vacate the trial date and adjourn to that future date.
25. Case law requires me to consider whether there were less draconian sanctions available.
26. I agreed with the respondent that there were no other sanctions available that would be effective, given that an unless order would necessitate a long adjournment which for the reasons above could not in my view be proportionate, and previous Case Management Orders had in my view already been flagrantly disregarded by the claimant without any apparent reason of any kind.
27. For the reasons above I agreed that this was one of the rare cases where a strike out was in the interests of justice and in the interests of the overriding objective,

and was a proportionate way (indeed the only possible proportionate way) of dealing with the matter.

28. For these reasons the claimant's claims for unfair dismissal and victimisation are struck out in their entirety under rules 38(1)(b) and (c). The respondent did not expressly plead rule 38(1)(d), but I decided that rule also applied.
29. The respondent also made an application in the alternative under rule 47 of the Employment Tribunals Procedure Rules 2024. This was based on substantially similar submissions, with the additional point that although the Trib has discretion to proceed in the claimant's absence instead of dismissing her case, it was unlikely to be in line with the overriding objective, in the interests of justice and proportionate to do so. This is because, as is clear from the deposit orders that were already in place, the claimant's evidence is essential because her claim on the basis that she made protected disclosures had already been dismissed. As had been expressly stated in those deposit orders, following the previous strike out of the whistleblowing claim it is unclear on what basis the claimant challenges the trust and confidence breakdown which is the substantial part of her unfair dismissal claim. The respondent took me to several places in the bundle where the claimant appears to have accepted that there was such a breakdown.
30. I agreed with the respondent's submissions on the rule 47 point as well.
31. I did not need to make a finding or decision in relation to rule 47 because I have already acceded to the respondent's strikeout application under rule 38. But I did say that, had I not so agreed, I would alternatively have found sufficient reason to dismiss the claimant's claim in her absence on the strength of rule 47.

**Employment Judge M Da Costa
20 July 2026**

Note

Reasons for the judgment were given orally at the hearing. Written reasons will not be provided unless a party asked for them at the hearing or a party makes a written request within 14 days of the sending of this written record of the decision.

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