



EMPLOYMENT TRIBUNALS

Claimant: Peter Tamas

Respondent: Impression Health and Support Limited

Heard at: Manchester by CVP

On: 8 June 2026

Before: Employment Judge Lloyd

Representation

Claimant: In person

Respondent: Mrs Peckham, Solicitor

PRELIMINARY HEARING IN PUBLIC JUDGMENT

1. The claimant's application to strike out the amended grounds of resistance is refused.
2. The respondent's application to strike out the claimant's complaint about an incident involving Mr Murphy on 8 August 2024 is refused.
3. The respondent's application to strike out of the claimant's complaint that the respondent failed to make reasonable adjustments in its failure to support an employee with a mental health condition is refused.
4. The respondent's application to strike out the complaint that the respondent discriminated against the claimant on the grounds of race and/or religious discrimination in requiring him to work weekends is refused.
5. The respondent's application to strike out the complaint that the respondent discriminated against the claimant on the grounds of race discrimination in moving his clothes from the shower area to an area near the toilets is refused.

6. The respondent's application to strike out the complaint that the respondent discriminated against the claimant in communications with ACAS is accepted and this part of the claimant's case is struck out.

The Law

7. A claim or response (or part) can be struck out on the following grounds:
 - that it is scandalous or vexatious or has no reasonable prospect of success — [rule 38\(1\)\(a\)](#) Employment Tribunal Procedure Rules 2024.
 - 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 — [rule 38\(1\)\(b\)](#).
 - for non-compliance with any of the Tribunal Rules or with an order of the tribunal — [rule 38\(1\)\(c\)](#).
 - that it has not been actively pursued — [rule 38\(1\)\(d\)](#)
 - that the tribunal considers that it is no longer possible to have a fair hearing in respect of the claim or response (or the part to be struck out) — [rule 38\(1\)\(e\)](#).
8. When considering whether to strike out a claim, a tribunal must first consider whether any of the grounds set out in [rule 38\(1\)\(a\)–\(e\)](#) have been established; and then, having identified any established grounds, it must decide whether to exercise its discretion to order strike-out. The requirement for a two-stage approach was confirmed in [Hasan v Tesco Stores Ltd EAT 0098/16](#), in which it was held that an employment judge had erred in failing to consider whether to exercise the discretion to strike out claims on the basis that they had no reasonable prospect of success. The EAT noted that [rule 37 of the Tribunal Rules 2013](#) (now [rule 38 of the Tribunal Rules 2024](#)) was framed in permissive terms: it allowed an employment judge to strike out a claim where one of the five grounds was established, but it did not require him or her to do so. The second-stage exercise of discretion was important, not just where the striking-out ground established was minor or excusable; it was a fundamental cross-check to avoid the premature termination of a claim that may yet have merit. The factors that might have been relevant to the exercise of the judge's discretion in this case included the early stage of the proceedings, the ability to direct further and better particulars, and the absence of any application from the respondent for the claims to be struck out.
9. Tribunals should be careful before exercising their power to strike out complaints that have been poorly articulated by litigants in person *Mbuisa v Cygnet Healthcare Ltd EAT 0119/18*.
10. In *Cox v Adecco and ors* [2021] ICR 1307 the Employment Appeal Tribunal gave guidance to Tribunals dealing with strike-out applications against litigants in person. It held that when considering strike out of claims brought against litigants in person, the claimant's case should be taken at its highest

and that strike out is not a substitute for good case management and that the Tribunal must consider, in reasonable detail, what the claims and issues are.

11. Strike out is a draconian sanction and not one to be used too lightly. In *Anyanwu and anor v South Bank Student Union and anor* 2001 ICR 391, HL, the House of Lords highlighted the importance of not striking out discrimination claims except in the most obvious cases.
12. In deciding whether to strike out a party's case for non-compliance with an order under [rule 38\(1\)\(c\)](#), a tribunal will have regard to the overriding objective set out in [rule 3](#) of seeking to deal with cases fairly and justly. This requires a tribunal to consider all relevant factors, including:
 - the magnitude of the non-compliance
 - whether the default was the responsibility of the party or his or her representative
 - what disruption, unfairness or prejudice has been caused
 - whether a fair hearing would still be possible, and
 - whether striking out or some lesser remedy would be an appropriate response to the disobedience — see [Weir Valves and Controls \(UK\) Ltd v Armitage 2004 ICR 371, EAT](#).
13. I have considered the above authorities, the overriding objective and the requirement for proportionality in determining the respondents' application for strike out.

REASONS -CLAIMANT'S APPLICATION

14. The claimant asked for the amended grounds of resistance to be struck out. This was on the grounds that the respondent was to have provided them by 23 January 2026. They were not in fact presented until 25 March 2026. A preliminary hearing was due to take place on 30 March 2026. This did not go ahead due to the illness of a judge.
15. The claimant said that he had an opportunity to read the grounds of resistance as amended given the preliminary hearing was delayed for over two months until today. The respondent said the grounds were served late due to pressures of work.
16. Although the amended grounds of resistance were served late, the claimant has had an opportunity to fully consider them given the preliminary hearing listed in March 2026 did not go ahead. A fair hearing is possible in the circumstances. I find that no unfairness or prejudice has been caused by the late service of the amended grounds as the claimant has had sufficient time to read them before today's hearing. As such it is not fair or just to strike out the amended grounds of resistance.

REASONS – RESPONDENT'S APPLICATION

17. The respondents applied for strike out, or in the alternative deposit orders, of a number of the claimant's complaints.

Incident with Mr Murphy on 8 August 2024

18. Any complaint of discrimination brought before 11 November 2024 is in time. The respondent says the incident with Mr Murphy is out of time. The claimant said the problems with Mr Murphy were continuing, and they were still under discussion in early 2025. The claimant said this was not a one off act which occurred in August 2024, and problems with this colleague continued after August 2024. Given this assertion, I consider that this allegation should be considered at the final hearing when a finding can be made on whether or not the problems between the claimant and Mr Murphy amounted to acts of discrimination which were continuing beyond 11 November 2024.
19. I do not strike out this part of the claim as having no reasonable prospects of success. There is no proper basis on which I could decide that there is no reasonable prospect of the Claimant persuading the Tribunal that it is just and equitable to extend time (assuming that he is required to rely on that discretion).
20. For the avoidance of doubt, I express no opinion one way or the other about whether the Claimant is more likely to succeed on the time limit point, or to fail on the time point. That is not the test that applies for strike out purposes, and the fact that my decision is that the claimant's prospects are higher than "no reasonable prospects of success" should not be misinterpreted by the parties.

Reasonable adjustment complaint

21. The respondent says that the claimant's allegation that the respondent failed in its duty to make reasonable adjustments in a lack of a support system for an employee with a mental health condition should be struck out. This is because it is vague, misconceived and has little reasonable prospects of success.
22. I consider that this ground of complaint requires consideration of the evidence at the final hearing before a decision can be made as to whether it has merit. It is not possible to make a finding on whether this allegation has no reasonable prospects of success until all the oral and written evidence is presented and considered. I do not strike this out because this is evidence sensitive and does not satisfy the requirements under Rule 38 of the Tribunal Rules.

Discrimination complaint in relation to the allocation of shifts

23. The respondent has provided information on weekends that the claimant was given time off work. The claimant says he was treated less favourably than others in the allocation of weekend shifts due to his nationality and religion. Again it is difficult to make a finding that this allegation has no reasonable prospects of success until all the oral and written evidence is presented and

considered. I have seen the weekend working pattern of the claimant but not how it compared to other colleagues who the claimant says were treated differently in the allocation of weekends off.

24. I do not strike this out because this is evidence sensitive and does not satisfy the requirements under Rule 38 of the Tribunal Rules.

Belongings moved from shower

25. The claimant says his belongings were moved from the shower to the toilet area and this is because of his nationality. It is difficult to determine whether this allegation has no reasonable prospects of success until all the oral and written evidence is presented and considered.

26. I refuse the respondents' application to strike out this part of the discrimination complaint set out above.

27. In summary, the allegations the respondent seeks to strike out are discrimination claims. Strike out will only be appropriate for the most obvious and plain cases with reference to these complaints. Many of the factual matters are disputed so will require consideration of the evidence at a final hearing. The claimant is a litigant in person and so may not have presented his complaints in the best light. Having taken the claimant's discrimination complaints at their highest, I concluded that the first part of the two-part test was not met.

ACAS complaint

28. The allegations of discrimination regarding discussions with ACAS were made without prejudice. As such they cannot be considered by the Tribunal and they are struck out as they have no reasonable prospects of success.

Approved by

Employment Judge Lloyd

Date: 8 June 2026

ORDER SENT TO THE PARTIES ON

Date: 28 July 2026

FOR THE TRIBUNAL OFFICE