



EMPLOYMENT TRIBUNALS

Claimant: Mr M T Shabir

Respondent: Cygnet Health Care Limited

PRELIMINARY HEARING

Heard at: Leeds (by CVP) **On:** 27 July 2026

Before: Employment Judge Robertson

Representation

Claimant: In person

Respondent: Ms I Brunton, counsel

JUDGMENT

1. The claimant's complaint of unfair dismissal within the Employment Rights Act 1996 is dismissed.
2. The respondent's application for strike out of the claimant's complaint of unlawful disability discrimination within the Equality Act 2010 is refused.
3. Case Management Orders for the further conduct of the complaint of unlawful disability discrimination appear in a separate document.

SUMMARY REASONS

1. The claimant's complaint of unfair dismissal must be dismissed as he did not have as at the effective date of termination of his employment on 11 October 2025 the period of not less than two years' employment with the respondent specified by section 108(1) of the Employment Rights Act 1996 to be entitled to the right not to be unfairly dismissed.

2. The respondent applied for the claimant's complaint of unlawful disability discrimination to be struck out under rule 38(1)(c) of the Employment Tribunals Rules of Procedure 2024 on the ground that he had not complied with the Case Management Orders made by Employment Judge Jones on 28 January 2026.

3. At paragraph 11 of those orders, Employment Judge Jones said this:

If the claimant wishes to apply to amend the claim, having regard to the observations in paragraph 4 above, his written application must be sent to the Tribunal and the respondent's representative by 19 February 2026.

The observations at paragraph 4 of the orders were in the following terms:

The claim for disability discrimination is not pleaded at all, save that the claimant has ticked the box identifying that claim. There is no reference to what disability the claimant has and how it had any relevance to the facts. As such, it is not in a form which could proceed to a hearing; the respondent does not know what case it has to defend and the Tribunal does not know what disability discrimination case it is asked to find. The claimant would have to make a written application to amend to pursue any such claim. The respondent would have the right to respond to that application and the Tribunal would then make a ruling, allowing or disallowing the application.

4. The claimant had not made an application to amend his claim to give details of his complaint of disability discrimination which therefore remained unparticularised. This meant that the respondent did not know what case it had to meet.

5. At paragraphs 13 and 14 Employment Judge Jones ordered the claimant also by 19 February 2026 to identify what impairment he relied upon and by 26 March 2026 to provide information about the impairment, broadly in the form of an impact statement.

6. Although on 17 July 2026 the claimant had purported to comply with those orders very late, the information he had provided came nowhere near what was required.

7. The claimant also on 17 July 2026 had sent copy medical records in belated compliance with paragraph 15 of the Case Management Orders.

8. I concluded that there had been serious failure by the claimant to comply with Case Management Orders. I noted also that the claimant had not responded to the respondent's Request for Further Particulars sent to him in July and October 2025.

9. I was not satisfied that the mental ill-health which the claimant told me he had experienced, especially after having two close family bereavements, excused him from complying with the Case Management Orders. He had not contacted the Tribunal to explain the circumstances or to request extensions of time. I noted that the Tribunal had not sent the orders made on 28 January 2026 to the parties until 2 March 2026, after the date for compliance with paragraphs 11 and 13, but there had been ample time for compliance thereafter.

10. I noted, however, that the unrepresented claimant had not attended the hearing

on 28 January 2026, and appeared not to understand what paragraph 11 required him to do and which would have been explained had he attended. He appeared to believe that any information about his medical condition should come from his doctor. I had regard also to the principle that a claim should only be struck out in the most serious cases of default and consideration should be given to whether there were other and more proportionate ways of addressing the default.

11. I concluded that strike out would be disproportionate and that the claimant should be given a further and last opportunity by way of Case Management Orders to provide information about his claim including that ordered by Employment Judge Jones. I made clear that the claimant must provide the information precisely and fully as required in my Case Management Orders.

12. The respondent also applied for strike out under rule 38(1)(b) on the ground of the claimant's unreasonable failure to cooperate but this seemed to me to add little to the application based on failure to comply with Case Management Orders and the relevant considerations and my decision are the same.

13. Finally, the respondent applied for strike out on the ground that the complaint had no reasonable prospect of success. This was on the basis that the Particulars of Claim did not set out, as Employment Judge Jones had remarked, any particulars of a disability discrimination claim.

14. The Tribunal cannot properly assess the prospects of success of a claim unless it knows what the claim is. For this reason, I asked the claimant to explain why he believed he had been the subject of unlawful disability discrimination in respect of the events in the Particulars of Claim. I had in mind that the Tribunal would have requested this information from the claimant had he attended the hearing on 28 January 2026 and this was why Employment Judge Jones had said what he did at paragraphs 4 and 11 of his orders.

15. The claimant told me that on the day of the events for which he was dismissed for gross misconduct, he was experiencing low mood, stress and poor mental health. He was also experiencing stress-related migraines. He believed that his colleague on duty with him that day did not assist him and management allowed the site to be understaffed, creating more stress for him. He says that given his health issues, he should not have been put in that position. Although the claimant had referred in recent correspondence with the Tribunal to other impairments, including incontinence, it did not appear to be his case that they were relevant to the events leading to his dismissal.

15. I concluded that it would be disproportionate to strike out the disability discrimination claim at this point, based on the existing Particulars of Claim. Rather, the application to strike out should be refused and the claimant should be given an opportunity to provide a properly-pleaded claim based on what he had told me today and for the respondent then to amend its response in reply to this. I made clear to the claimant that in providing these details, which would require an application to amend the claim, he should carefully review the basis for the complaint, as it remained not entirely clear from what he told me how he related his disability to the respondent's reasons for dismissing him based on mistreatment of a resident. It will then be for the respondent to decide if any application should be made to the Tribunal based on the

claimant's complaint as he articulates it.

16. I made separate Case Management Orders accordingly.

Approved by:

Employment Judge Robertson

28 July 2026

Notes

Written full reasons will not be provided unless requested by any party by a written request received by the Tribunal within 14 days of the sending of the written summary reasons.

All judgments (apart from judgments under Rule 51) and any written full 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/