



EMPLOYMENT TRIBUNALS

Claimant: Jodie Butler

Respondent: Notus Support Services Ltd

Heard: by Cloud Video Platform on 30 July 2026

Before: Employment Judge Ayre

Representation

Claimant: represented herself

Respondent: Stephanie Waitson, Finance Director of Nirvana Group

JUDGMENT

The claim is struck out under Rule 38(1)(c) of The Employment Tribunal Procedure Rules 2024.

REASONS

Background

1. The claimant presented her claim to the Employment Tribunal on 13 January 2026 following a period of ACAS early conciliation that started on 5 January 2026 and ended on 12 January 2026. The respondent defends the claim.
2. In the claim form the claimant says she was employed by the respondent as a mobile cleaning operative from 6 October 2025 until 1 December 2025. She appears to be making a claim for unpaid wages, but her claim is very brief and it is not clear in respect of what period she is claiming wages or how she has calculated the £1,000

referred to in the claim form or the £1,000 “*for the wait and mess around*”.

3. By letter dated 2 February 2026 the Tribunal made Orders to prepare the case for hearing. The Orders included the following:
 1. The claimant to send to the respondent within four weeks a document setting out how much she is claiming and how the amount has been calculated, and copies of all supporting documents and evidence;
 2. Anybody who is giving evidence must produce a written witness statement, including the claimant and the respondent. The parties to send copies of their witness statements to the other party within eight weeks.
 3. No later than 7 days before the date of the hearing, the claimant and the respondent to send copies of their own documents, evidence and witness statements to the Tribunal.
4. The claimant has not complied with any of those Orders, nor has she tried to do so.
5. On 17 March 2026 the respondent applied for the claim to be struck out on the ground that the claimant had failed to comply with the Case Management Orders. In the application the respondent specifically referred to the Tribunal’s letter of 2nd February 2026 and to the specific Orders which the claimant had not complied with. The application was copied to the claimant, but she did not respond.
6. Unfortunately, the application was not referred to an Employment Judge, and the respondent followed up its application on 5 May 2026. The respondent wrote again to the Tribunal on 12 July chasing its application for strike out and writing that “*the court date is scheduled for 30th July and we are due to provide our documents to the court but without the information from the claimant, we are unable to prepare adequately.*”
7. On 18 July 2026 the respondent wrote again to the Tribunal, copying in the claimant, stating that the claimant had still not complied with the Orders set out in the Tribunal’s letter of 2 February 2026 and repeating its application for strike out.
8. On 19 July the claimant wrote to the Tribunal and the respondent that “*I’ve all the evidence I need to bring to the tribunal on the 30th July at 2pm ive got all the evidence of work ive done plus all the hours ive done and all the travelling i did for Notus when they asked me to do night work*”. It appears from this correspondence that the claimant did have evidence, but had not disclosed it.
9. On 22 July 2026 the respondent wrote again to the Tribunal stating that the

respondent was unclear of the claimant's claim, and that the respondent was no longer trading, and had no employees. The claimant responded the same day stating that she disagreed with what the respondent was saying. She also referred to being owed 55 hours at £13 an hour, in contrast to the claim form in which she referred to 35 hours.

10. On 24 July the respondent wrote again to the Tribunal stating that the claimant had not complied with either Order 6 or Order 9 of the Tribunal's orders, and applying again for the claim to be struck out. The claimant replied the same day stating "*I don't know why you keep saying I haven't corresponded with the court when ive corresponded everytime and also ive all the evidence to bring in the day of the tribunal*" and "*I disagree in all aspects yourselves as a company has been absolutely diabolical. I'll Provide all evidence needed at the Tribunal.*"
11. On 27 July Employment Judge Lancaster directed that the parties should ensure that all relevant documents are available at the hearing, and that the Judge at today's hearing would decide whether the case can properly be decided, or should be postponed, or should be struck out for failure to comply with directions.
12. The claimant did not send any documents to the Tribunal in advance of today's hearing.

The hearing

13. There was no schedule of loss, bundle of documents or witness statements before the Tribunal. The claimant told the Tribunal that she had received the letter of 2 February 2026 from the Tribunal but had not read it.
14. When asked whether she had complied with the Tribunal Order 6.1 set out in the letter of 2 February, the claimant replied that she had sent a letter with all of the hours worked.
15. The claimant was given time to find the letter, and forwarded to the Tribunal and the respondent 6 emails she had sent to the respondent directly between December 2025 and February 2026. In one of those emails she referred to being owed 78 hours' pay, in others she referred to being owed 74.5 hours' pay. She told the Tribunal that she is making a claim for £968.50.
16. I invited both parties to make submissions on the respondent's application for strike out and adjourned to make my decision.

The Law

17. Rule 38 of The Employment Tribunal Procedure Rules 2024 provides that:

“(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 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 or response...”*

(2) A claim, response or reply may not be struck out unless the party advancing it has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.

18. When deciding whether to strike out a claim for non-compliance with the Tribunal’s Orders, the Tribunal must take account of the overriding objective set out in Rule 3 of The Employment Tribunal Procedure Rules and must consider all relevant factors. In ***Weir Valves and Controls (UK) Ltd v Armitage [2004] ICR 371*** the EAT held that relevant factors may include:

1. The magnitude of the non-compliance with the Orders;
2. Whether the failure to comply was the fault of the party or of their representative;
3. What disruption, prejudice or unfairness has been caused by the non-compliance;
4. Whether a fair hearing would still be possible; and
5. Whether striking out is an appropriate response, or some lesser sanction would be appropriate.

19. In ***Emuemukoro v Croma Vigilant (Scotland) Ltd [2022] ICR 327, EAT***, the EAT held that when considering whether a fair trial is still possible, the Tribunal can consider whether a fair trial is possible within the allocated trial window. The EAT rejected an argument that the question of whether a fair trial is still possible must be determined in absolute terms, and held that where a party’s unreasonable conduct means that a fair trial is not possible within the allocated trial window, the power to strike out is triggered.

Conclusions

20. In reaching my conclusions on the respondent's application for strike out, I have taken account of the fact that strike is a draconian sanction and one which should not be lightly applied.
21. I also take account of the fact that strike out cannot be considered unless a party has had opportunity to make representations on the question. I am satisfied that the claimant has had such an opportunity. She has been on notice of the respondent's application since 17 March 2026 and has had the opportunity to make written representations to the Tribunal at any point since then. She has also had the opportunity to make oral submissions during today's hearing.
22. I have considered first whether the circumstances set out in Rule 38(1)(c) apply in this case. I am satisfied that they do. The claimant has failed to comply with any of the Orders set out in the Tribunal's letter of 2 February 2026 despite telling the Tribunal that she had received that letter. It is incumbent on anyone bringing an Employment Tribunal claim to take steps to progress that claim and to comply with the Tribunal's Orders. The claimant has not done so.
23. Whilst I recognise that the claimant is a litigant in person, there are many litigants in person who appear before the Employment Tribunals, and who are able to take steps to prepare their claims for hearing. The claimant appears to have taken no such steps.
24. The claimant has been on notice since 17 March 2026 that the respondent considered that she had not complied with the Tribunal Orders. Rather than taking steps to comply however, she wrote to the Tribunal criticising the respondent, in one communication referring to the respondent as "*absolutely diabolical*". The claimant has repeatedly been reminded of her non-compliance with the Tribunal's Orders but has taken no steps to remedy the situation.
25. As a result of the claimant's total non-compliance with the Tribunal's Orders, it is not possible for the hearing to proceed today. The respondent has not had proper notice of the claim that it has to meet. The claimant's position has changed over time, from her claim form which refers to 35 hours, to the emails submitted today which refer to up to 78 hours. No breakdown of the hours has been provided at all. No documents have been submitted by the claimant, there is no schedule of loss and no witness statements.
26. Having concluded that the claimant has failed to comply with the Orders of the Tribunal, I have then gone on to consider whether strike out is an appropriate sanction, taking account of the factors set out in ***Weir Valves and Controls (UK) Ltd v Armitage***.

27. The magnitude of non-compliance in this case is significant. No steps whatsoever have been taken to comply with the Tribunal's Orders.
28. The non-compliance is entirely the responsibility of the claimant who accepts that she received the Tribunal's Orders as set out in the letter of 2 February but did not read them.
29. Even when the respondent pointed out to the claimant that she had not complied, she did not take any steps to remedy the situation or check what she needed to do.
30. As a result, the respondent has not been able to prepare for this hearing as it does not know how the claimant puts her claim and has not seen any evidence in support of the claim. The claimant has caused significant disruption and prejudice to the respondent by not complying with the Orders. It would be unfair to force the respondent to proceed today to defend a case which is unclear.
31. A fair hearing is therefore not possible today because of the claimant's non-compliance. The respondent did not know until the start of this hearing the case it has to meet, and has not been able to prepare to defend that case.
32. I have considered whether some lesser sanction would be appropriate and conclude, on balance, that it would not be. In reaching this conclusion I take account of the fact that adjourning the hearing and making new case management orders would result in a delay of many months and a fair hearing, which would cause the respondent significant prejudice due to the fact that it is no longer trading and has no employees.
33. The claimant has had notice of this hearing since 2 February 2026 and has had ample time to prepare. It is quite simply not possible for a fair trial to take place within the trial window allocated to the claim.
34. For these reasons, the claim is struck out.

Approved by:
Employment Judge Ayre
Date: 30 July 2026

Notes

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