



EMPLOYMENT TRIBUNALS

Claimant: Mr M Edmonson
Respondent: Mitchell & Butler Retail Ltd
Heard at: East London Hearing Centre (by CVP)
On: 14 July 2026
Before: Employment Judge Jones

Representation

Claimant: in person
Respondent: no appearance. Written representations

UPON APPLICATION made by letters dated 20 and 26 October 2024 and reflecting a request from the EAT in the Order dated 25 February 2026 to reconsider the judgment dated 13 July 2024 under rule 69 of the Employment Tribunal Procedure Rules 2024

JUDGMENT

- 1. The Claimant's applications for reconsideration of the reconsideration judgment dated 10 October 2024 is refused.***
- 2. The judgment of this Tribunal sent to the parties on 13 July 2024 is confirmed. The claim remains struck out.***

REASONS

1. The Claimant submitted his ET1 claim form on 5 January 2024. In that form, the Claimant complained that he had been unfairly dismissed. He ticked the box indicating a claim for unfair dismissal contrary to section 94 of the Employment Rights Act 1996. He did not tick the boxes indicating that he wished to make a claim for unpaid notice pay, unpaid wages or for any other complaint.
2. The Claimant gave some additional details in box 8.2. He stated that he had been employed by the Respondent from 1 January 2022 to 1 November 2023.

3. The Tribunal wrote to the Claimant on 5 March 2024 to warn him that unless he could provide reasons in writing by 19 March why his claim should not be struck out, it would be, because the Claimant did not have two years' service with the Respondent. The letter referred to section 108 Employment Rights Act 1996, which states that a claimant cannot bring a complaint of unfair dismissal unless they have been employed for a period of two years, ending with the date of termination.
4. The Claimant wrote to the Tribunal on 29 April 2024, which was after the deadline given to him by the Tribunal. In his letter, he explained why he considered that his dismissal was unfair. He did not address the issue of whether the Tribunal had jurisdiction to hear his unfair dismissal complaint. Although the Claimant referred in that letter to sex discrimination, he did not apply to add such a complaint to his claim and he did not explain what the sexual discrimination. In another letter, also sent on 29 April, the Claimant referred to two letters sent to the Respondent, one of which was about his '*sexual inequality claim*', which was not sent to the Tribunal. The Claimant did not provide details of his sex inequality claim in his correspondence with the Tribunal.
5. The Claimant also wrote to the Tribunal on 2 and 21 May 2024. In those letters he continued to debate the reason for dismissal, suggesting that he had been dismissed for attempting to photograph his contract of employment. He had subsequently found out that a female member of staff had uploaded an advert for a company event to social media, which included a photo and therefore he asserted that this was evidence of him being treated differently.
6. The Tribunal considered all the Claimant's correspondence and noted that he had not made any application to amend his claim to add a complaint of sex discrimination or any other complaint. Also, the Claimant had given the Tribunal no explanation as to why the Tribunal was said to have jurisdiction over his complaint of unfair dismissal such that it should be allowed to proceed. It was therefore the Tribunal's judgment, sent to the parties on 13 July 2024, that the claim of unfair dismissal could not proceed as the Claimant did not have the two years' service required by statute to qualify to bring such a complaint.
7. The Claimant made an application for reconsideration on 24 July 2024. The application made no reference to a sex discrimination complaint. It also did not set out a complaint of a failure to pay notice pay or wages or any other complaint. In the application for reconsideration, the Claimant made representations about his perception of the unfairness of his dismissal. The Tribunal carefully considered that application and refused it on the basis as set out in the full reasons attached to the judgment. The judgment and full written reasons for that refusal were sent to the Claimant on 10 October 2024.
8. The Claimant wrote to the Tribunal on 20 and 26 October 2024, challenging the decision to refuse his application for reconsideration. Initially, the Tribunal could not open the documents in the format in which he sent them.

He was invited to re-submit them. This correspondence was not shown to EJ Jones. The email of 20 October was referred to Regional Employment Judge (REJ) Burgher on 21 October. The Claimant suggested in the email that he would create a report with what he referred to as the '*big guns*' in his evidence against the Respondent to fully explain his point of view. REJ Burgher wrote to the Claimant on 28 October to say that as EJ Jones had already refused the earlier application for reconsideration, unless there was a successful appeal to the EAT, there was nothing to be reconsidered.

9. It is not clear from the Tribunal file whether REJ Burgher also saw the Claimant's letter dated 26 October 2024. In that letter, the Claimant referred to his dismissal letter and the internal appeal process. He attached a copy of the appeal statement he prepared for his appeal hearing. In attaching that document, he stated '*please find attached my report regarding my wrongful dismissal, and associated documents.*' He also attached an affidavit and an email confirming that he had withdrawn his trademark application. The Tribunal wrote to him on 7 November to say that it could not open the files and those were sent again on the same day. This time they could be accessed. However, those documents were not forwarded to EJ Jones and were not considered by the Tribunal.
10. The Claimant's appeal against what he considered was REJ Burgher's judgment came before The Hon. Lord Fairley, President of the EAT (Employment Appeal Tribunal), on 25 February 2026. The proposed appeal was stayed for a period of 3 months to allow the Claimant to write to the Tribunal to clarify the position and to request that an employment judge should consider and rule upon his reconsideration applications of 20 and 26 October 2024. The 3(10) hearing at the EAT will be resumed at a later date, following the determination of the Claimant's application.
11. Once the matter was returned to the Tribunal, REJ Burgher confirmed that he had not conducted a reconsideration of the October 2024 reconsideration judgment. He had simply indicated to the Claimant that EJ Jones' judgment would not be reconsidered unless there had been an order of the EAT.
12. Following the EAT's instructions, the Claimant wrote to the Tribunal on 6 March 2026 to renew his application for reconsideration of the judgment dated 13 July 2024 and the judgment of reconsideration dated 10 October 2024. In his application for reconsideration the Claimant stated the following: -
 - That he now realises that he did not have the requisite qualifying service for a claim of ordinary unfair dismissal.
 - That it was clear from his ET1 (boxes 6.3 and 8.2) that he was dismissed without notice and disputed that he had committed gross misconduct.
 - That had he understood the legal distinction he would have framed his claim as one for wrongful dismissal rather than unfair dismissal.
 - That there had been no hearing prior to the strike-out judgment of 13

July 2024 or prior to the judgment refusing reconsideration on 10 October and that his lack of legal understanding may therefore have not been apparent.

- That during the period March to October 2024 he had been experiencing significant personal difficulties including divorce, serious illness of his father and those materially affected his ability to present matters clearly.
 - By October 2024 he had obtained clearer guidance, although not from a lawyer, about wrongful dismissal.
 - He was seeking to amend his claim to add a complaint of wrongful dismissal. He confirmed that he did not want to pursue a complaint of sex discrimination.
13. It was not clear to the Tribunal whether this email from the Claimant was an application for reconsideration or an application to amend or both. The Claimant's email of 6 March 2026 and the earlier emails of 20 and 26 October 2024 and the attachments that were sent again on 7 November 2024; were all referred to EJ Jones as the Claimant was applying for reconsideration of her judgments.
14. Before conducting the hearing, EJ Jones wrote to the Claimant on 9 April. She confirmed that now that she had read them, the words '*wrongful dismissal*' had been used in one of the emails in October 2024 but that the email had not contained an application to amend. Before that email the Claimant had always referred to his claim as that of unfair dismissal.
15. The Claimant was asked to clarify in writing whether it was now his application that his original ET1 contained a complaint of wrongful dismissal which the Tribunal had missed. If not, was it his case that the letter of 26 October was an application to amend to add a complaint of wrongful dismissal. The Tribunal considered it unlikely as the email had been headed '*application for reconsideration*' but the Claimant was given the opportunity to clarify. In his response dated 20 April, the Claimant confirmed that his original ET1 had not contained a complaint of wrongful dismissal. He also confirmed that the email of 26 October 2024 was his application to amend his claim to add a complaint of wrongful dismissal. He wished to proceed with both complaints. The Claimant asked for his applications to be considered at an in-person hearing.
16. The in-person reconsideration hearing was listed for today, 14 July 2026. The Tribunal received a letter from the Respondent's solicitors dated 13 July in which it opposed any application from the Claimant to amend his claim to add wrongful dismissal. The Respondent confirmed that it would not be attending the hearing as it would be disproportionate to do so in terms of time and expense as the value of any complaint of wrongful dismissal would not be worth more than £200 to the Claimant.
17. The Claimant gave live evidence today and he also made closing submissions. The Tribunal considered all the documents and the Respondent's ET3 response to the claim and their most recent letter.

Decision

Unfair Dismissal

18. The Tribunal is not persuaded that the Claimant's employment started before 1 January 2022. The Claimant did not receive his P45 until sometime in November but the act of sending a P45 does not end employment. It is evidence that employment has ended. The Claimant's employment ended on 5 October when, at the end of the hearing, he was informed that he was dismissed. That was his last day of work. As far as the start date of his employment is concerned, it is this Tribunal's judgment that doing odd jobs for a business, especially when you are not being paid for those odd jobs, cannot be classed as employment. Nothing that the Claimant did for the Respondent in 2021 was employment. It is this Tribunal's judgment that the Claimant's employment began on 1 January 2022 and ended on 5 October 2023. In the circumstances, it is this Tribunal's judgment that the Claimant had not worked for the Respondent for 2 years when his employment was terminated.
19. There was no evidence presented to the Tribunal today or in response to Tribunal correspondence in March 2024 or since, which shows that the Claimant was employed for a minimum of 2 years with the Respondent at the time of his dismissal.
20. Section 108 Employment Rights Act 1996 requires an employee to have been continuously employed for a minimum of 2 years before they can bring a complaint of unfair dismissal. The exceptions do not apply to this Claimant. It is therefore this Tribunal's judgment that the Tribunal has no jurisdiction to hear the Claimant's complaint of unfair dismissal, and the original strike out on 13 July 2024 and reconsideration judgment dated 10 October 2024 are both confirmed.
21. The application for reconsideration fails.

Wrongful Dismissal

22. The Claimant also today pursued his application for his emails of 20 and 26 October to be considered as an application to amend his claim to add a complaint of wrongful dismissal. Those emails were received by the Tribunal after the 10 October judgment. It is therefore appropriate that the Tribunal considers whether they provide a reason to rescind the reconsideration judgment of 10 October 2024.
23. It is correct that the Respondent dismissed the Claimant at the end of a disciplinary hearing held on 5 October 2023. The Respondent considered that he had committed gross misconduct. The Claimant does not agree that he did. The Tribunal makes no judgment on whether he had committed gross misconduct. It is also a fact that the Claimant had no notice of his dismissal. The Claimant therefore had a possible complaint of gross misconduct.

24. However, as confirmed by the Claimant, there was no complaint of wrongful dismissal in his original ET1 complaint. In his letters dated 20 and 26 October, after his claim had been struck out and in what he had titled an application for reconsideration, he referred to his dismissal as '*wrongful dismissal*'. There was no application to amend. It is likely that this was a mistake and the Claimant meant to say unfair dismissal. Also, this email was written in October 2024. The Claimant having been dismissed in October 2023.
25. The Claimant made it clear today that he wished to add a complaint of wrongful dismissal to his claim. Such an application would have been out of time in October 2024. It is even more out of time today, 14 July 2026.
26. The Tribunal considered that, even if it were an application to amend, at the time of the email in October 2024, the Claimant was seeking to amend a claim that had already been struck out because the Tribunal had no jurisdiction to hear it. At that time there was no claim to amend.
27. The Respondent submitted that it had been reasonably practicable for the Claimant to have brought the wrongful dismissal complaint in time. A complaint of wrongful dismissal is a breach of contract complaint. The time limits for this are set out in the Extension of Jurisdiction Order (England and Wales) Order 1994. Article 7 states that *an employment tribunal shall not entertain a complaint in respect of an employee's contract unless it is presented within the period of three months beginning with the effective date of termination of the contract. Where the tribunal is satisfied that it was not reasonably practicable for the complaint to be presented within whichever of those periods of time is applicable, within such further period as the tribunal considers reasonable.*
28. This Tribunal considered the evidence that the Claimant presented today. He had some personal difficulties following his dismissal, including marital breakdown and the serious illness of his father. It was not clear to the Tribunal when exactly those things happened. Also, at the same time, the Claimant wrote many letters to the Tribunal following the issue of his claim. He was able to pursue his claim and to put his case to the Tribunal. He had senior Counsel assisting him with the appeal to the EAT. The Claimant did not make an application in his letters of 20 and 26 October 2024 but even if he had, it was already out of time as the Claimant had been dismissed on 5 October 2023. His complaint of wrongful dismissal should have been with the Tribunal by 5 January 2024. It was therefore approximately 10 months out of time, even if one considers that the mere mention of the words '*wrongful dismissal*' can be considered as an application.
29. It is this Tribunal's judgment that it was reasonably practicable for the Claimant to have sought advice, if advice was required and completed the ET1 form correctly in January 2024. The Claimant found out about unfair dismissal and in the same way he could have found out about his right to claim wrongful dismissal. It was reasonably practicable for him to have obtained legal advice or advice from the Citizens Advice Bureau or elsewhere at the time he issued his ET1 claim form in the Tribunal or when he was asked questions about his right to claim unfair dismissal in March

2024. That would have been also have been out of time but not to the extent that it was out of time in October 2024. Also, this was not an application but a mention of the words '*wrongful dismissal*' in describing a document. Even if the mere mention of the words '*wrongful dismissal*' in describing the complaint can be taken as an application, it was out of time by a year at the time the emails in October 2024 were written and was related to a complaint that had already been struck out. It was contained within an application for reconsideration, which is why it did not come to the Tribunal's attention.

30. In the circumstances, the application to amend the claim to add a complaint of wrongful dismissal is refused. There is nothing else in the emails of 20 and 26 October 2024 that could cause the Tribunal to reconsider the judgment dated 10 October 2024.
31. The reconsideration judgment dated 10 October 2024 is confirmed and the claim remains struck-out. The Claimant cannot proceed with his claim.

Approved by:
Employment Judge Jones
Dated: 29 July 2026