



EMPLOYMENT TRIBUNALS

Claimant: William Moore

Respondent: East Midlands Ambulance Service NHS Trust

Heard at: Nottingham

On: 19, 20, 21, 22, 23, 26 January 2026

Before: Employment Judge McTigue
Mr K Chester
Mr C Tansley

Representation

Claimant: In person
Respondent: Mr C Wright of Counsel

JUDGMENT

1. The claimant's application for a postponement of the final hearing is refused.
2. The respondent's application for strike out of the claim under Rule 38(1)(e) of the Employment Tribunal Procedure Rules 2024 is refused.
3. The claim is dismissed under Rule 47 of the Employment Tribunal Procedure Rules 2024 because the claimant failed to attend or be represented for the duration of the final hearing.

REASONS

Background

1. This is a claim brought by Mr William Moore against his current employer. ACAS early conciliation started on 22 March 2024 and ended on 3 May 2024. The claimant presented his claim form to the Tribunal on 15 May 2024. Mr Moore claimed direct disability discrimination, discrimination because of something arising from disability, and being subjected to detriments due to making a protected disclosure.
2. When dealing with this matter the Tribunal has had regard to the Equal

Treatment Bench Book and the Presidential Guidance on Vulnerable Parties and Witnesses in Employment Tribunal proceedings. The Tribunal recognise that the claimant is a vulnerable party

3. The claimant applied for a postponement of the final hearing on day 6 of a 10-day final hearing. In turn, the respondent applied to strike out the claim on the basis that a fair hearing was no longer possible. Before dealing with the conclusions reached in respect of those applications, it is necessary to set out a chronology of the key events in the claim.
4. On 19 September 2024 the first preliminary hearing for case management purposes took place before Employment Judge M Butler. Based on the number of witnesses that each side proposed to call, a lengthy bundle and a day for the Tribunal to read in, the final hearing was listed for 19, 20, 21, 22, 23, 26, 27, 28, 29 and 30 January 2026.
5. On 30 November 2025 the claimant applied for a postponement of the final hearing. He cited multiple reasons why he required a postponement including wishing to amend his claim, obtain legal representation and medical grounds. In respect of medical grounds, he stated:

“Medical grounds

Over the past month I have experienced significant health difficulties which have materially affected my ability to prepare for a hearing of this length and complexity. My condition impacts my neurological function and physical endurance and would make participation in a prolonged twelve day hearing unsafe and impracticable. I am in the process of obtaining updated medical evidence to support this.”

6. On 31 December 2025 the Tribunal refused the claimant’s application for postponement. It emailed the parties at 8.45 am on that day in the following terms:

“The Claimant’s application for a postponement of the full merits hearing, the Respondent’s objections and the further correspondence thereafter have today been referred to Employment Judge Heap who apologises to the parties on behalf of the Tribunal for the delay in correspondence being dealt with.

The Claimant’s application is refused and the hearing will proceed as listed. Insofar as the Claimant relies on being medically unfit to attend a hearing he has not supplied any medical evidence to that effect as required by the Presidential Guidance on Postponements and Adjournments from which there is no reason to depart.

Whilst it is noted that the Claimant says that he intends to apply to amend the claim no draft has been supplied to date and the application pre-supposes that any amendment would be granted. It may well be refused and the hearing would have then been vacated for no good reason.

With regard to the need to obtain legal representation, this claim was presented in May 2024 and the Claimant has had more than ample opportunity to seek and secure representation. The application also does

not engage with what steps the Claimant has taken to secure representation, when he did so or why he was unable to do so in time for the hearing as listed.

Finally, postponing a hearing of this duration (which the Claimant should note is 10 days not 12 as his application states) is not in accordance with either the overriding objective or the interests of justice given that it would result in a significant delay into 2028 at the earliest before it could be relisted. By that stage the cogency of the evidence will be highly likely to have diminished and that does not favour the interests of either party.

The application is therefore refused and the claim remains listed for hearing as previously notified to the parties.”

7. At 10.12am on 31 December the claimant made an application that reasonable adjustments be made to the final hearing. That application was referred to Employment Judge V Butler who directed that an urgent preliminary hearing be listed before 14 January 2026 to discuss adjustments at the final hearing.
8. That urgent preliminary hearing took place before me on 7 January 2026. The respondent's representative, Ms L Dukes, attended. The claimant failed to attend. The claimant subsequently emailed the Tribunal at 3.43pm stating that, "My absence arose as a result of the impact of my autism and ADHD, which on this occasion led to a significant loss of time awareness and cognitive overload. This occurred in the context of ongoing tribunal preparation, continuing duties at work and correspondence." No medical evidence was provided by the claimant in relation to his failure to attend on 7 January 2026.
9. At the urgent preliminary hearing on 7 January 2026, I directed that the claimant's application for reasonable adjustments be determined at the start of the final hearing. Consequently, the entirety of the Tribunal's first day with the parties present would be allocated to determining any outstanding preliminary issues between the parties, including the claimant's application for reasonable adjustments.
10. The final hearing commenced on Monday 19 January 2026. The first day was a reading day for the Tribunal.
11. On Tuesday 20 January 2026, at the outset of the hearing, reasonable adjustments were agreed for the claimant. These were the adjustments sought by the claimant and included:
 - 11.1. The claimant was able to request additional breaks whenever he wished.
 - 11.2. The Tribunal would use a clearly signposted timetable for each hearing day.
 - 11.3. The claimant would be given additional time to respond to questions and could ask for clarification of questions if necessary.
 - 11.4. The claimant could refer to himself as "The Claimant" during the hearing rather than using his name.
 - 11.5. The claimant could stand up whenever he wished when giving evidence should the need arise.
 - 11.6. The claimant could ask for any matter to be clarified or simplified.
12. We should also record that the claimant agreed that he did not seek the

following as reasonable adjustments:

- 12.1. To receive written copies of the respondent's cross-examination questions in advance.
 - 12.2. To seek to take his laptop into the witness box.
 - 12.3. That the Tribunal refer to him as "the Claimant". He did however wish the respondent's representative to do so.
13. Following that discussion the claimant confirmed that he was happy with the adjustments made. The list of issues was then discussed and agreed with the parties and the claimant given permission to add additional documents to the bundle. The Tribunal drew the claimant's attention to the fact that his witness statement made no reference to the relevant pages of the bundle. Conscious of the fact that he was a litigant in person the Tribunal gave him permission to serve an updated version of his witness statement on the respondent. The claimant told the Tribunal that, with access to his home computer, he could complete that task in about an hour. As it was now approximately 3pm the Tribunal gave the claimant until 7pm that evening to serve his amended witness statement upon the respondent. We explained in clear terms to the claimant that references to relevant page numbers in the bundle should be inserted at the end of relevant sentences or parts of sentences of his statement.
14. It was brought to our attention that the parties had agreed that one of the respondent's witnesses, Ms Weldin, could serve and rely upon a supplementary witness statement on behalf of the respondent and that the claimant had leave to serve a supplementary statement dealing with the additional points raised by Ms Weldin. The claimant was given until 10am on Friday 23 January 2026 to serve that supplementary statement should he so wish. The claimant also confirmed to the Tribunal that he was now not seeking to amend his claim despite earlier references stating that he intended to do so.
15. On Wednesday 21 January 2026 the claimant stated, at the start of the hearing, that he was feeling unwell but that he was content to continue. We reminded the claimant that he could ask for additional breaks whenever he wished. We raised with the claimant that, despite the clear instructions given, he had not amended his witness statement in the format allowed. Instead, the claimant has produced an appendix to his witness statement. That document was supplied to the respondent at 8.31pm on the previous evening. The claimant stated that he understood he had not done what he was told to do by the Tribunal. Consequently, the Tribunal refused the claimant permission for that appendix to be relied upon as evidence and oral reasons in respect of that decision were given at the time. The claimant commenced giving evidence at 11.10am and was cross-examined for the rest of the day. We had regular breaks throughout the day. The day finished slightly early at the claimant's request.
16. At the start of Thursday 22 January 2026, the claimant stated that he wished to have additional breaks regularly scheduled rather than having to ask for them. It was agreed that the claimant would be given a break of approximately ten to fifteen minutes every hour rather than having to ask for them. The claimant indicated he was happy with the adjustment. The claimant also asked if could dip his fingers in water to turn the pages of the bundle. That was, of course, agreed. The claimant raised then the issue of postponing the final hearing and it was clearly explained to the claimant that if a postponement request were to be made, it would need to be supported by independent medical evidence

stating that he was not fit to participate in Tribunal proceedings. It was also made explicitly clear to the claimant that a standard fit note was not, in and of itself, sufficient evidence that an individual was not fit to participate in Tribunal proceedings as it merely demonstrated unfitness for work. Cross-examination of the claimant then continued for the remainder of that day.

17. The claimant failed to attend the Tribunal on Friday 23 January 2026. In advance of the hearing, he emailed the Tribunal at 7.54am:

"Dear Employment Tribunal,

I am the Claimant in the above case.

Following more than 48 hours of giving evidence under oath and cross-examination, my health has deteriorated significantly to the point where I am unfit to continue the proceedings.

New stress-related symptoms began yesterday after leaving the witness box. These have partially resolved, but I am left with ongoing abdominal pain, extreme levels of stress, and discomfort.

My pre-existing neuropathy has worsened to an unbearable level, severely impairing my ability to walk and I have developed palpitations. My autism and ADHD, which are usually well managed, are now extremely difficult to control. This has led to heightened sensory sensitivity, dysphoria, and severe anxiety.

These combined issues make it impossible for me to participate further without seriously jeopardising my physical and mental health. I am therefore unfit to continue today or in the immediate future.

I am arranging an urgent GP appointment today. I will obtain a written letter from the GP detailing their diagnosis, prognosis, and recommendations (including fitness to participate in tribunal proceedings). I will forward this to the Tribunal immediately upon receipt.

In the circumstances, I apply under Rule 32 of the Employment Tribunal Procedure Rules 2024 for a postponement/adjournment of the hearing until such time as I am medically fit to proceed, supported by the forthcoming GP evidence.

I apologise for the timing but the deterioration occurred directly as a result of the time in the witness box. I am aware of the possible outcomes of this email.

Thank you for your consideration of this urgent application."

18. After hearing from the respondent, the Tribunal wrote to the parties in the following terms at 12.03pm:

"The Tribunal refers to the claimant's application for a postponement of the final hearing sent earlier today at 07.54. The application is refused as it is not supported by medical evidence from a GP or other suitably qualified medical professional which demonstrates that the claimant is unfit to

participate in Tribunal proceedings and the reason why the claimant is unfit in Tribunal proceedings. Currently, the final hearing proceeds as listed.

*The Tribunal has, however, decided that is in the interests of justice not to sit further today so that the claimant has an opportunity to obtain the necessary medical evidence should he wish to remake his postponement application in the future. The final hearing shall resume on **Monday 26 January 2026 at 10am**. The claimant should attend in person if he is able. It is hoped that the now extended weekend break will provide the claimant with time to recover.*

By no later than 10am on Monday 26 January 2026 the claimant is ordered to provide the Tribunal with medical evidence in support of any postponement application he wishes to make...

19. The claimant did not attend the hearing on Monday 26 January 2026. Instead, in the interim, he had emailed the Tribunal in the following terms at 9.05pm on Friday 23 January 2026:

“Pursuant to the Order dated 23 January 2026, I hereby formally renew my application for the adjournment of the final hearing.

Attached please find:

- 1. My Witness Statement, dated 23 January 2026, detailing the functional impact of my medical conditions on my ability to participate in proceedings.*
- 2. Exhibit WM1: Med3 (Statement of Fitness for Work) from Dr Fowski Abdillahi, dated 23 January 2026.*

A more detailed MED3 has been requested from my GP specifically addressing tribunal participation but has been delayed administratively and the GP - College Street Medical Practise, is now closed. I have followed up with the practice urgently. In the interim, my sworn Witness Statement provides the necessary link between the certified conditions and the specific functional incapacities relevant to tribunal participation.

The medical evidence confirms I am not fit for work due to an acute stress response, exacerbated neuropathic pain, and autistic overwhelm which has severely affected my communication. My Witness Statement explains how these specific symptoms render me medically unfit to participate in the hearing, as I cannot give coherent evidence, follow proceedings, or withstand cross-examination.

A further detailed letter from my GP is in preparation but has been delayed administratively. I have requested it be expedited. In light of this evidence, I respectfully submit that proceeding would be prejudicial to my health and to the fairness of the hearing. I apply for an adjournment to a date to be fixed.

I regret that I will be unable to attend in person on 26 January as I am following medical advice to rest.”

That email was sent by the claimant on 23 January 2026 at 9.05pm.

20. Upon commencing the hearing, the respondent's representative made clear that it opposed the claimant's application for a postponement. The respondent submitted that the application failed to comply with Rule 32 of the Employment Tribunal Procedure Rules 2024 as it had not been made more than seven days in advance of the final hearing and it was not one of the circumstances which fell within Rule 32(2). The respondent also made an application to strike out the claim on the grounds that a fair hearing was no longer possible pursuant to Rule 38(1)(e). The respondent submitted that limited weight should be attached to the witness statement attached to the claimant's most recent email and that the fit note submitted by the claimant gave no indication as to when he might be able to take part in any final hearing. The respondent submitted that it had the right to have the claim determined in a timely manner pursuant to Article 6 of the European Convention on Human Rights. The respondent also referred the Tribunal to the following cases:

Ameyaw v PricewaterhouseCoopers Services Ltd EAT 0291/19
Teinaz v London Borough of Wandsworth 2002 ICR 1471, CA
Andreou v Lord Chancellor's Department 2002 IRLR 728, CA
Riley v Crown Prosecution Service 2013 IRLR 966, CA
Rackham v NHS Professionals Ltd EAT 0110/15.

The Law

Postponement

21. Rule 32 of the Employment Tribunal Procedure Rules 2024 provides as follows

“(1) An application by a party for a postponement must be received by the Tribunal as soon as possible after the need for a postponement becomes known.

(2) In the circumstances listed in paragraph (3) the Tribunal may only order a postponement where—

(a) all other parties consent, and—

(i) it is practicable and appropriate for the purposes of giving the parties the opportunity to resolve their disputes by agreement, or

(ii) it is otherwise in accordance with the overriding objective,

(b) the application was necessitated by an act or omission of another party or the Tribunal, or

(c) there are exceptional circumstances.

(3) The circumstances are—

(a) a party makes an application for a postponement less than 7 days before the date on which the hearing begins, or

(b) the Tribunal has ordered two or more postponements in the same

proceedings on the application of the same party and that party makes an application for a further postponement.

(4) In this rule—

(a) “postponement” means a postponement of a hearing including any adjournment which causes the hearing to be held or continued at a later date;

(b) “exceptional circumstances” may include ill health relating to an existing long term health condition or disability.”

22. Although Tribunals retain a broad discretion in matters of postponement and adjournment, they must take account of the overriding objective in Rule 3.

23. The leading case on postponements for medical reasons under the ET Rules 2004 and prior to the issue of the Presidential guidance was **Teinaz v London Borough of Wandsworth** [2002] IRLR 721 (CA). The Court of Appeal ruled:

"A litigant whose presence is needed for the fair trial of a case, but who is unable to be present through no fault of his own, will usually have to be granted an adjournment, however inconvenient it may be to the tribunal or court and to the other parties. That litigant's right to a fair trial under Article 6 of the European Convention on Human Rights demands nothing less. But the tribunal or court is entitled to be satisfied that the inability of the litigant to be present is genuine, and the onus is on the applicant for an adjournment to prove the need for such an adjournment." (Paragraph 21.)

24. Further guidance on a Tribunal's discretion to postpone or adjourn on the ground of ill health was given by the Court of Appeal in **Andreou v Lord Chancellor's Department 2002 IRLR 728**, CA. In that case a number of, non-exhaustive, factors that Tribunals have to balance were identified at paragraph 46.

25. The Presidential Guidance (England & Wales) – Seeking a Postponement of a Hearing, issued on 4 December 2013, provides at example 1:

“When a party or witness is unable for medical reasons to attend a hearing. All medical certificates and supporting medical evidence should be provided in addition to an explanation of the nature of the health condition concerned. Where medical evidence is supplied it should include a statement from the medical practitioner that in their opinion the applicant is unfit to attend the hearing, the prognosis of the condition and an indication of when that state of affairs may cease.”

Tribunals in England and Wales must have regard to that Guidance but they are not bound by it.

26. In **Riley v Crown Prosecution Service** 2013 IRLR 966, CA Longmore LJ stated:

It would, in my judgment, be wrong to expect Tribunals to adjourn heavy cases, which are fixed for a substantial amount of court time many months before they are due to start, merely in the hope that a claimant's medical

condition will improve. If doctors cannot give any realistic prognosis of sufficient improvement within a reasonable time and the case itself deals with matters that are already in the distant past, striking out must be an option available to a Tribunal.

27. In **Morton v Eastleigh Citizens' Advice Bureau** [2020] EWCA Civ 638, the Court of Appeal dismissed an appeal against the Employment Tribunal's refusal to adjourn a final hearing where Rule 30A(2) of the **Employment Tribunal Rules of Procedure 2013** applied. Rule 30A(2) stated:

"(2) Where a party makes an application for a postponement of a hearing less than 7 days before the date on which the hearing begins, the Tribunal may only order the postponement where—

- (a) all other parties consent to the postponement and—*
 - (i) it is practicable and appropriate for the purposes of giving the parties the opportunity to resolve their disputes by agreement; or*
 - (ii) it is otherwise in accordance with the overriding objective;*
- (b) the application was necessitated by an act or omission of another party or the Tribunal; or*
- (c) there are exceptional circumstances.*

28. In dismissing the appeal in **Morton**, Lewison LJ (with whom Underhill LJ agreed) stated:

"23. A decision by a tribunal to refuse an adjournment is a case management decision. A decision of that kind often involves an attempt to find the least worst solution where parties have diametrically opposed interests. In the case of an adjournment application the grant of an adjournment will cause delay in resolving the dispute, will give rise to abortive and irrecoverable costs, will lose hearing time in the ET to the inconvenience of other users. All these are factors which the ET routinely has in mind when considering such applications. On the other hand, it must take into consideration the need for a fair process (fair to both sides, that is); and consider any prejudice that the applicant will suffer if the application is refused.

24. As Mummery LJ explained in **O'Cathail v Transport for London** [2013] EWCA Civ 21, [2013] ICR 614 at [44]:

"In relation to case management the employment tribunal has exceptionally wide powers of managing cases brought by and against parties who are often without the benefit of legal representation. The tribunal's decisions can only be questioned for error of law. A question of law only arises in relation to their exercise, when there is an error of legal principle in the approach or perversity in the outcome. That is the approach, including failing to take account of a relevant matter or taking account of an irrelevant one, which the Employment Appeal Tribunal should continue to adopt..."

29. Rule 38 of the Employment Tribunal Procedure Rules 2024 provides as follows:

“(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 the 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, response or reply (or the part to be struck out).

(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.”

30. When considering whether to strike out a claim, the Tribunal must first consider whether any of the grounds set out in rule 38(1) have been established; and then, having identified any established grounds, it must decide whether to exercise its discretion to order strike-out. This two-stage approach was confirmed in **Hasan v Tesco Stores Ltd** EAT 0098/16, EAT.

31. In deciding whether to order strike-out, Tribunals should have regard to the overriding objective of dealing with cases ‘fairly and justly’, set out in rule 3 of the Tribunal Rules.

32. The key authority on the test for strike out in the ET is the Court of Appeal judgment in **Blockbuster Entertainment Ltd v James** [2006] IRLR 630, CA. The comments at para. 21 are particularly pertinent:

*“It is not only by reason of the Convention right to a fair hearing vouchsafed by article 6 that striking out, even if otherwise warranted, must be a proportionate response. The common law, as Mr James has reminded us, has for a long time taken a similar stance: see *Re Jokai Tea Holdings* [1992] 1 WLR 1196, especially at 1202E–H. What the jurisprudence of the European Court of Human Rights has contributed to the principle is the need for a structured examination. The particular question in a case such as the present is whether there is a less drastic means to the end for which the strike-out power exists. The answer has to take into account the fact – if it is a fact – that the tribunal is ready to try the claims; or – as the case may be – that there is still time in which orderly preparation can be made. [...] Proportionality, in other words, is not simply a corollary or function of the*

existence of the other conditions for striking out. It is an important check, in the overall interests of justice, upon their consequences.”

33. The concept of a “fair trial” was refined by the EAT in **Emuemukoro v Croma Vigilant (Scotland) Ltd** [2022] ICR 327 at para. 19:

“If [the employer’s] proposition were correct, then these considerations would all be subordinated to the feasibility of conducting a trial whilst the memories of witnesses remain sufficiently intact to deal with the issues. In my judgment, the question of fairness in this context is not confined to that issue alone, albeit that it is an important one to take into account. It would almost always be possible to have a trial of the issues if enough time and resources are thrown at it and if scant regard were paid to the consequences of delay and costs for the other parties. However, it would clearly be inconsistent with the notion of fairness generally, and the overriding objective, if the fairness question had to be considered without regard to such matters.”

34. The key authority on strike out where a fair trial has been denied due to ill health on the part of the claimant is **Riley v Crown Prosecution Service** [2013] IRLR 966. At paras. 27-28 the Court of Appeal summarised the position as follows.

“[27] It is important to remember that the overriding objective in ordinary civil cases (and employment cases are in this respect ordinary civil cases) is to deal with cases justly and expeditiously without unreasonable expense. Article 6 of the ECHR emphasises that every litigant is entitled to ‘a fair trial within a reasonable time’. That is an entitlement of both parties to litigation. It is also an entitlement of other litigants that they should not be compelled to wait for justice more than a reasonable time. Judge Hall-Smith correctly found assistance in remarks of Peter Gibson LJ in Andreou v The Lord Chancellors Department [2002] IRLR 728 which are as relevant today as they were 11 years ago:

‘46. The tribunal in deciding whether to refuse an adjournment had to balance a number of factors. They included not merely fairness to Mrs Andreou (of course an extremely important matter made more so by the incorporation into our law of the European Convention on Human Rights, having regard to the terms of Article 6): they had to include fairness to the respondent. All accusations of racial discrimination are serious. They are serious for the victim. They are serious for those accused of those allegations, who must take very seriously what is alleged against them. It is rightly considered that a complaint such as this must be investigated, and disputes determined, promptly; hence the short limitation period allowed. This case concerned events which took place very many years ago, well outside the normal three months limitation period. The tribunal also had to take into account the fact that other litigants are waiting to have their cases heard. It is notorious how heavily burdened employment tribunals are these days.’

[28] It would, in my judgment, be wrong to expect tribunals to adjourn heavy cases, which are fixed for a substantial amount of court time many months before they are due to start, merely in the hope that a claimant’s medical condition will improve. If doctors cannot give any realistic prognosis of

sufficient improvement within a reasonable time and the case itself deals with matters that are already in the distant past, striking out must be an option available to a tribunal. Like Wilkie J I can see no error of law and would dismiss this appeal."

35. Strike-out must be a proportionate response, and cases alleging abuse of process or discrimination are only to be struck out in the most obvious and plainest of cases. In **Anyanwu v South Bank Student Union** [2001] 1 W.L.R. 638, Lord Steyn stated that:

"24. ...For my part such vagaries in discrimination jurisprudence underline the importance of not striking out such claims as an abuse of the process except in the most obvious and plainest cases. Discrimination cases are generally fact-sensitive, and their proper determination is always vital in our pluralistic society. In this field perhaps more than any other the bias in favour of a claim being examined on the merits or demerits of its particular facts is a matter of high public interest."

Non-attendance

36. Rule 47 of the Employment Tribunal Procedure Rules 2024 provides as follows:

"If a party fails to attend or to be represented at a hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it must consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence."

Conclusions

37. At the outset of our conclusions, we again record that the Tribunal had regard to the Equal Treatment Bench Book and the Presidential Guidance on Vulnerable Parties and Witnesses in Employment Tribunal proceedings.

Postponement

38. This is the claimant's third application for a postponement of final hearing. Although it has been supported by independent medical evidence, that evidence does not demonstrate that the claimant is unfit to participate in Tribunal proceedings. We also note that the claimant was referred to the Presidential Guidance in relation to seeking a postponement by Employment Judge Heap on 31 December 2025.
39. More recently the Tribunal informed the claimant, in clear terms, on Thursday 22 January 2026 that any application for postponement would need to be supported by independent medical evidence which demonstrated that he was not fit to participate in Tribunal proceedings. He was explicitly told that a Fit Note, in and of itself, did not demonstrate that an individual was not fit to participate in Tribunal proceedings. He was again informed of the evidence required, in writing, by the Tribunal on Friday 23 January 2026.
40. The medical evidence submitted by the claimant is a Fit Note. It was completed by Dr Fowsi Abdillahi on 23 January 2026. It shows that Dr Abdillahi assessed

the claimant on that same date and advised him that he was not fit for work from that date until 22 February 2026 because of “*acute stress response and anxiety, insomnia/agitated/overwhelmed, neuropathy – decline in mobility and function, autism inability to mask – overwhelmed – communication affected, low mood.*”

41. Despite clear instructions from the Tribunal as to the evidence that would be required in respect of a postponement application, the medical evidence submitted does not demonstrate that the claimant is unfit to participate in Tribunal proceedings.
42. We attach limited weight to the claimant’s witness statement of 23 January 2023 in respect of its assessment of his ability to participate in Tribunal proceedings. His witness statement is an attempt to explain how his symptoms render him unfit to participate in Tribunal proceedings. It is not independent. Dr Abdillahi’s medical evidence is independent but it merely demonstrates that the claimant is not fit to work. It does not demonstrate that claimant is not fit to participate in Tribunal proceedings. The claimant, of course, has also not made himself available to be cross-examined in respect of the contents of his statement.
43. The claimant has indicated that he is unfit to attend the remainder of this final hearing although the independent medical evidence does not support that contention.
44. If the case were to be relisted there would be further delay in this matter and witnesses’ recollections of events would diminish further. This is especially the case here as the claimant, in part, complains about discussions which took place in an alleged meeting on 31 March 2023 with two employees of the respondent, namely Ms Poulton-Hartley and Ms Weldin. The respondent’s position is that no meeting took place on that date. Further delay will dim all parties’ recollections of relevant events around that time and whether any meeting did in fact take place.
45. We also need to consider the impact on the respondent in this case. It is a claim in which the claimant has made serious allegations of discrimination. It was presented on 15 May 2024 and the respondent, and its witnesses, are entitled to have some finality in these proceedings and not have allegations hanging over them with no certainty of any resolution.
46. There is also the cost to the respondent to consider. The overriding objective requires the Tribunal to deal with cases without delay where possible and save expense. To date, the respondent has incurred the costs of defending this claim and those costs would inevitably increase if the matter were relisted.
47. We also need to consider the resources of the Tribunal and the impact on other Tribunal users. There is significant pressure on Tribunal resources in the Midlands East region. Currently, new three-day cases are being listed into 2029. As this is a part heard case, it would take priority when relisting but in probability, this is a case which would not be relisted until early to mid-2027 at best. Relisting hearings for insufficient reasons impedes access to justice for others in the system who are seeking to advance their claims.

48. There is also the expense to the public which needs to be considered. This claim has already been the subject of two preliminary hearings and, to date, a six-day final hearing. We also observe that the claimant failed to attend the urgent preliminary hearing which was listed at his request. Further hearings will result in additional cost to the public purse.
49. We note that the claimant stated in his email of 23 January 2026 at 9.05pm that he had requested a more detailed letter from his GP but that it had been administratively delayed. The claimant provided no indication as to when that letter might be received. It is, in our opinion, not in accordance with the overriding objective to postpone this final hearing on the basis that a letter from the claimant's GP may follow at some later date. Consequently, taking all relevant factors into account, we conclude that the information supplied by the claimant does not demonstrate that he is unfit to participate in Tribunal proceedings and so his application for a postponement is refused.
50. If the claimant does come into possession of more detailed medical evidence he may apply for a reconsideration of this judgment using the procedure outlined at Part 12 of The Employment Tribunal Procedure Rules 2024. Such application should be made within 14 days of the date these reasons are sent to him and supported by the medical evidence. That medical evidence must include a statement from the medical practitioner that in their opinion the applicant was unfit to attend the hearing, the prognosis of his condition and an indication of when that state of affairs may cease.

Strike Out

51. We shall deal briefly with the respondent's application for strike out. What the respondent effectively seeks is for a final disposal of this matter. We do see merit in the application as it appears a fair trial is no longer possible within the current trial window - of **Emuemukoro v Croma Vigilant (Scotland) Ltd** [2022] ICR 327. However, Rule 38(2) provides:

"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."

52. We initially indicated that we would allow the respondent's strike out application but upon further reflection it was evident that, as the respondent made its application orally before the Tribunal on Monday 26 January 2026, the claimant had not been given a reasonable opportunity to make representations either in writing or at a hearing prior to the determination of the strike out. For that reason, the respondent's strike out application is refused.

Non-attendance

53. We return again to the medical evidence before the Tribunal and observe that it does not support the claimant's contention that he is not fit to participate in a final hearing. The medical evidence before the Tribunal does not support that position.
54. The claimant has had ample opportunity to obtain medical evidence and indeed stated on 30 November 2025, when he made his first application for

postponement of the final hearing, that he was in the process of obtaining updated medical evidence to demonstrate how participating in a prolonged hearing would be unsafe and impracticable. Save for the fit note of Dr Abdillahi of 23 January 2026 the Tribunal has not received any other medical evidence from the claimant.

55. The claimant was part-way through being cross-examined by the respondent's representative when he made his application for postponement. That has been refused.
56. The Tribunal considered all the information available to it in relation to the reasons for the claimant's absence. We noted the contents of the claimant's emails from 23 January 2026, the contents of the claimant's witness statement and the fit note of Dr Abdillahi. We considered we had sufficient information detailing the reasons for the claimant's non-attendance.
57. We have now lost two days of Tribunal hearing time due to the claimant's absence. Even if he were minded to attend tomorrow, that would only allow for four days for:
 - 57.1. The claimant's cross examination to conclude.
 - 57.2. The claimant's two witnesses to be called and cross-examined.
 - 57.3. The respondent's four witnesses to be called and cross-examined.
 - 57.4. Both parties to make oral submissions.
58. Even if the Tribunal were to reserve its decision, there is simply insufficient time in the current trial window to complete all of the above actions.
59. We considered whether it is possible to proceed in the claimant's absence. However, that would again increase costs for the respondent which is a public body which has already been put to considerable expense during these proceedings. In addition, as the claimant is not present there is nobody to call his witnesses. He has also chosen not to be represented. Whilst the Tribunal has a duty under the overruling objective to ensure that parties are on an equal footing, that does not extend to calling witnesses for a non-attending party.
60. Proceeding in the claimant's absence would also require hearing from four witnesses for the respondent. They are individuals who work for a public body which provides an essential service to the public and requiring them to attend at the Tribunal would inevitably interfere with the delivery of those public services.
61. Taking all matters into account, we have concluded that the claim is dismissed under under Rule 47 of the Employment Tribunal Procedure Rules 2024 because he has failed to attend or be represented for the duration of the final hearing.
62. We again remind the claimant that if he does come into possession of more detailed medical evidence then he may apply for a reconsideration of this judgment using the procedure outlined at Part 12 of The Employment Tribunal Procedure Rules 2024. Such application should be made within 14 days of the date these reasons are sent to him and supported by relevant medical evidence. That medical evidence must include a statement from the medical practitioner that in their opinion the applicant was unfit to attend the hearing,

the prognosis of his condition and an indication of when that state of affairs may cease.

63. Finally, if it was not already apparent to the claimant, he is excused from his oath.

Approved by:

Employment Judge McTigue
2 February 2026

JUDGMENT SENT TO THE PARTIES ON

.....23 February 2026.....

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FOR THE TRIBUNAL OFFICE

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision. If written reasons are provided they will be placed online.

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