



EMPLOYMENT TRIBUNALS

Claimant: Lovemore Ngoni Madzinga

Respondent: Faith Health Care Agency

Heard at: Croydon

On: 16 June 2026

Before: Employment Judge Liz Ord

Representation:

Claimant: In person

Respondent: Ms Nicholson (employment consultant)

JUDGMENT

1. Upon withdrawal, the complaints of unfair dismissal and disability discrimination are dismissed.
2. The respondent's application to strike out the remaining claims is dismissed.
3. The respondent's application for an unless order is dismissed.

REASONS

Background

1. On 4 February 2026 the claimant presented a claim complaining of unfair dismissal, wrongful dismissal, race discrimination, and unauthorised deduction from wages. He later sought to add unpaid holiday pay into his schedule of loss, although this was not within the ET1/Particulars of Claim. At today's hearing he indicated that he may make an application to amend his claim to include outstanding holiday pay, albeit this matter is not before me today.
2. The claimant failed to comply with case management orders sent to the parties on 9 February 2026, and the respondent applied on 26 March and

20 April 2026 to strike out the claims or alternatively for an unless order.

3. The application was considered on the papers on 7 May 2026. The tribunal ordered the claimant to provide his schedule of loss within 14 days of the date of the tribunal letter, otherwise his claim would be struck out. The case was listed for a strike out hearing for today and the other case management orders of 9 February were stayed.
4. On 9 May the claimant responded asking for his claim not to be struck out and withdrawing his complaints of unfair dismissal and race discrimination.
5. On 16 May 2026 the claimant submitted his schedule of loss and a supplemental statement regarding his remaining claims. The accompanying letter suggests that the respondent had been copied in, although they appear not to have received the documents.

Strike out/unless order applications

6. The respondent's application was pursued under rule 38 of the Employment Tribunal Procedure Rules 2024 on the basis that the claimant had not complied with the tribunal orders and had not actively pursued his case. Alternatively, they argued that there were no reasonable prospects of success.
7. With respect to non-compliance/not actively pursuing the claim, although the claimant had not initially taken the required steps, he did comply with the tribunal order of 7 May and he is here today to defend his case. Using my wide discretion, I do not believe that striking out his claim on this basis would be fair and just, and I decline to do so.
8. With respect to there being no reasonable prospects of success, the application revolves around events that occurred in December 2025, which led to the claimant being summarily dismissed.
9. In essence, the respondent was driving a young person home, who was in the respondent's care, accompanied by her care worker. The journey took 3 hours when it would normally take around 45 minutes. The respondent submitted that this raised serious safeguarding issues, which warranted summary dismissal.
10. The claimant gave evidence on oath that the weather was bad, he had only recently arrived in England and did not know the road system, and he took a wrong turning ending up on the M25 from where he was unable to easily get back. The young person wanted a coffee and her mother authorised this by phone and so they stopped for a drink. He did not report the delay as the care worker said she would do it, and it was not his responsibility. The respondent had given him no training in the job, which he had only been in for a few months. He was not given an opportunity to explain his position. The respondent only decided to dismiss him when he told them he had applied for another job.
11. I must take the claimant's case at its highest and, from what I have heard and read, he has an arguable case. I do not accept that he has no reasonable prospects of success. In any event, using my wide discretion, I

take the view that it would not be fair and just to strike out this claim and I decline to do so.

12. The respondent applied for an order, in the alternative, that unless the claimant provide disclosure within 7 days, his claim be struck out. The February case management orders, including disclosure, were stayed on 7 May. Therefore, the claimant was not under an ongoing obligation to disclose documents. Consequently, it would not be in accordance with the overriding objective to make an unless order, and I decline to do so. Instead, I will make case management orders to progress the case to trial. These orders are contained within a separate document.

Employment Judge Liz Ord

Date 16 June 2026

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