



EMPLOYMENT TRIBUNALS

Claimant: Mr J Sears

Respondent: Hertfordshire County Council

Heard at: Watford (CVP)

On: 5 August 2026

Before: Employment Judge S Moore (sitting alone)

Appearances

For the Claimant: No appearance

For the Respondent: Ms J Majithia

JUDGMENT

The claim is dismissed under rule 47 of the Employment Tribunal Procedure Rules 2024 on the grounds the Claimant failed to attend or be represented at a hearing and/or struck out under rule 38(1)(b) and/or (c) on the grounds the manner in which the proceedings have been conducted by the Claimant is unreasonable and/or for non-compliance with an order of the Tribunal.

REASONS

- 1 The Claimant was employed by the Respondent as a Waste Operative from 25 January 2021 until shortly before this hearing.
- 2 He says that during his employment he was a disabled person within the meaning of s.6 Equality Act 2010 (EqA) by reason of anxiety and depression.
- 3 ACAS Early Conciliation took place between 28 May 2025 and 3 June 2025.
- 4 The claim form was presented on 11 June 2025, making complaints of disability discrimination, whistleblowing detriment and for other payments. His particulars of complaint were in the form of a grievance letter sent to the Respondent on 28 May 2025. In that grievance letter he complained that an application he made on 4 August 2024 for Site Manager at Berkhamsted was rejected with no

feedback, that on 26 and 27 September 2024 he had to work at the Berkhamsted site without the facilities of electricity, running water or toilets, and that he was not reimbursed the extra mileage he incurred to attend a different workplace while the site of Berkhamsted was upgraded.

- 5 In its response the Respondent stated, amongst other things, that the complaints were out of time, and in particular that the Claimant had not contacted ACAS until over 6 months after the acts complained of.
- 6 On 13 September 2025 the Claimant was ordered to provide, by 13 October 2025, further information to the Tribunal and the Respondent in respect of his complaints of disability discrimination and whistleblowing and also to provide medical evidence of his disability and an impact statement.
- 7 On 4 November 2025 the Claimant contacted the Tribunal asking for an extension of time and providing a screenshot of an invitation to a “trauma informed compassion focused therapy group”.
- 8 On 12 January 2026 the Claimant provided further information about his complaints in response to the Tribunal’s order of 13 September 2025 but did not provide any medical evidence.
- 9 On 23 March 2026 a Case Management Preliminary Hearing (CMPH) listed for 24 March 2026 was postponed due to lack of judicial resources.
- 10 The CMPH was re-listed for 26 May 2026. The Claimant did not attend and could not be contacted on the day of the hearing.
- 11 The Respondent was ordered to provide a draft list of issues to the Claimant by 12 June 2026 and the Claimant was ordered to respond to that list by 3 July 2026. Also by 3 July 2026 the Claimant was ordered to provide the Respondent his medical evidence relevant to whether he had the disability of anxiety and depression at the relevant time. The directions were sent to the parties on 20 June 2026.
- 12 A further CMPH was listed for 5 August 2026.
- 13 The Respondent, as ordered, provided the Claimant with a draft list of issues on 12 June 2026.
- 14 The Claimant did not respond by 3 July 2026, or at all.
- 15 On 23 July 2026 the Respondent sent the Claimant an email asking whether he intended to pursue his claim, and if not, that he should let the Tribunal and Respondent know before more costs were incurred.
- 16 The Claimant did not respond.

- 17 On 5 August 2026 (today) the Claimant made an application to postpone today's CMPH because he said "he was struggling to focus on the tribunal" and needed help which he had not yet been able to get. He said he was seeking mental health support through the adult mental health team, and that he could provide some information in a doctor's letter but this would take a number of days to produce.
- 18 The Respondent objected to the postponement application. It said the Claimant had failed to attend the previous CMPH, had not complied with the directions sent to the parties on 20 June 2026, and had not provided any medical evidence that he was unable to focus.
- 19 The Claimant responded that the Respondent had plenty of evidence of his ill-health, given that he had recently been dismissed on the grounds of his health (which the Respondent accepted) and said that if he were not unwell he would be able to seek help and organise his evidence. He also sent over a copy of a message being an appointment reminder at the Marlowes Health and Wellbeing Centre on 19 June 2026.
- 20 Dealing first with the Claimant's application for a postponement, rule 32 of the Employment Tribunal Procedure Rules 2024 provides that where a party has made an application for a postponement less than 7 days before a hearing the circumstances in which a Tribunal can order a postponement are limited, the only potentially relevant criteria in the present case being that there are exceptional circumstances.
- 21 However, I am not satisfied the Claimant has shown there are such exceptional circumstances. I am satisfied he has been attending and/or is attending some therapy sessions to assist his mental health but that falls considerably short of showing that he is not well enough to attend, by way of video link, a Preliminary Case Management Hearing or to engage with his case at all. Further he has shown he is well enough today to formulate a postponement application and to respond to the Respondent's objection to that application. I also note that the evidence of the therapy session relied on is dated 19 June 2026 (more than 6 weeks ago) yet he did not make an application for a postponement until today, by which time the costs of the hearing had been incurred.
- 22 If the hearing is not postponed, the question becomes what to do next.
- 23 Ms Majithia submitted the claim should be dismissed under rule 47 or struck out under rule 38 of the Employment Tribunal Procedure Rules 2024.
- 24 I note that this is the second hearing that the Claimant has failed to attend. Further, that he has still not complied with the order of 13 September 2025 to provide medical evidence and an impact statement and has not complied with the further orders of the Tribunal made at the CMPH on 26 May 2026 and sent to the parties on 20 June 2026. Moreover, there is no medical evidence before me justifying either the Claimant's failure to attend the hearings or his failure to comply with the Tribunal orders.

- 25 As a result, although the Claim Form was submitted over a year ago, and two CMPHs have taken place, it has not yet been possible for the Respondent to take a position on the matter of disability at the date of the events complained about, and it has not yet been possible to identify what complaints are being made, still less to draw up a list of issues – which is only the start of the litigation process. Further, the Claimant does not say when he will be able to engage with the case, suggesting instead that he will not be able to do so until he gets help which he has not yet been able to get. Accordingly, there appears little point in listing yet another CMPH or making further orders.
- 26 In the meantime, the Respondent has incurred significant legal costs (which come out of the public purse) as well as management time, in defending a claim that is not yet even close to being properly formulated. Moreover the greater the delay between the events in question and the Claimant's particularisation of his case, the more difficult it is for the Respondent to obtain the necessary evidence to respond to the allegations as memories fade and employees move on. The problem is all the more acute in the present case since it appears, on its face, that the complaints were out of time when the Claim Form was lodged.
- 27 For the reasons set out above, I am not satisfied that a fair trial of the matter remains possible, still less one which complies with the overriding objective set out in rule 3 of the rules.
- 28 Accordingly, in all the circumstances, I dismiss the claim under rule 47 of the Employment Tribunal Procedure Rules 2024 on the grounds the Claimant failed to attend or be represented at the hearing and/or struck out under rule 38(1)(b) and/or (c) on the ground the manner in which the proceedings have been conducted by the Claimant is unreasonable and/or for non-compliance with an order of the Tribunal.

Approved By:

Employment Judge S Moore

Date: 5 August 2026

Sent to the parties on:

4 September 2026

For the Tribunal: