



EMPLOYMENT TRIBUNALS

Claimant: Mrs Jowita Malecka

Respondent: Hamble Catering Ltd

JUDGMENT

The response is struck out.

REASONS

1. The Tribunal wrote to the respondent on 3 **September 2026** warning them that the Tribunal was considering striking out the response. This was because it appeared to the Tribunal, applying Rule 38 of the Employment Tribunal Procedure Rules 2024, that
 - the respondent had not complied with the Order of the Tribunal dated
 - The response has not been actively pursued.
2. The letter gave the respondent an opportunity to explain why the response should not be struck out, or to request a hearing at which to do so. The respondent has not replied.
3. I am satisfied that the grounds for striking out the response under Rule 38 apply, and that it would be in accordance with the overriding objective in Rule 3 to strike out the response. This is because
4. The respondent failed to comply with the case management orders and was written to on the 26 August 2026, stating that unless it served its witness statements upon the claimant by 31st of August 2026 it would be debarred from calling any evidence at the final hearings save with the exceptional leave of the trial judge.
5. No witness statement was served upon the claimant by the deadline.
6. On the 2 September 2026 the claimant wrote to the tribunal seeking making a renewed application to add Mr Ian Westwood as a second respondent, as the respondent had entered into creditors voluntary liquidation.
7. On the 2 September 2026 Mr Westwood responded stating that the

company had been in liquidation since the 16 July 2026 and that he could no longer legally act or comment as a director of Hamble Catering Limited.

8. No statement was received by or on behalf of the respondent.
9. On 3 September 2026 Regional Employment Judge Pirani wrote to the parties stating that in light of the continued noncompliance by the respondent the judge was considering striking out the response pursuant to rule 38 of the Employment Tribunal Rules of Procedure, because the response was not being actively pursued and or because the respondent was failing to comply with case management orders . Any objection to the proposal or a request for a hearing at which those objections could be set out were to be sent to the tribunal by 4:00 PM on 5 September 2026.
10. Nobody from the respondent or anyone representing the respondent attended at the hearing on 7 September 2026. The claimant confirmed that they had received no response from the respondent and the judge confirmed that no response had been received following a search of the relevant inbox by tribunal staff.
11. The Judge considered the respondent's failure to respond and their failure to comply with case management orders.
12. The fact of the voluntary liquidation does not prevent a respondent from complying with case management orders and in particular does not prevent a party from providing a witness statement when ordered to do so.
13. In the absence of any explanation other than the fact of the voluntary liquidation the judge considered that the continued failure to comply with case management orders was sufficiently serious to justify striking out the respondent's response, having taken into account the relevant legal provisions and relevant case law.
14. The Judge considered the respondents failures to comply with case management orders and the impact upon the fairness of the proceedings. In particular the judge referred to *Forrest v Amazon Web Services EMEA SARL UK Branch* 2025 EAT 81, in which the court considered it would always be important to issue an warning before considering strike out.
15. The Judge also considered the dicta of the EAT in *De Keyser Limited v Wilson* [2001] IRLR 324 EAT, in which the EAT made it clear that certain conduct, such as the deliberate flouting of a tribunal order can lead directly to the question of a striking out order.
16. In this case management orders had been deliberately ignored and the respondent had been given the opportunity to respond to the strikeout warning and had failed to do so.
17. In those circumstances the Judge considered that it was appropriate to strike out the respondent's response.
18. The response is therefore struck out. The respondent will be entitled to notice of any hearings and decisions of the Tribunal but will only be

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entitled to participate in any hearing to the extent permitted by the
Employment Judge.

Approved by:

Employment Judge Rayner

7 September 2026

JUDGMENT SENT TO THE PARTIES ON
14 September 2026

FOR THE TRIBUNAL OFFICE