



EMPLOYMENT TRIBUNALS

Claimant: Mr C Mugglestone

Respondent: F42 Travel Ltd

Heard at: Southampton, by telephone

On: 3 September 2026

Before: Employment Judge Dawson

Appearances

For the claimant: No attendance

For the respondent: Ms Lockyer, litigation executive

JUDGMENT

Pursuant to rule 47 Employment Tribunal Procedure Rules 2024 the claim is dismissed.

REASONS

Introduction and overview

1. By a claim form presented on 22 September 2025 the claimant brought the following complaints;

- a. Unfair dismissal;
 - b. Discrimination on the grounds sexual.
2. Notice of today's case management hearing was sent on 18 November 2025. Paragraph 7 of the notice of hearing stated: "An agenda for the hearing is attached. You must fill it in and return it to the Tribunal, with a copy to the other side, two days before the hearing. You should try to agree the agenda with the other side." The claimant has not done that.
3. On the same day, a strike out warning was sent to the claimant, stating that the tribunal was considering striking out his claim of unfair dismissal because he did not have two years or more service.
4. The claimant replied on 24 November 2025, stating that he was dismissed close to reaching two year's service and the timing of his dismissal was to prevent him from acquiring statutory protection. He stated that if the respondent had followed a proper procedure, that would have taken him beyond the two-year threshold and also stated "if the Tribunal concludes that length of service prevents an unfair dismissal claim, I respectfully submit that the factual basis of the dismissal nonetheless constitutes a claim for wrongful dismissal. The ET1 form did not provide an option to plead this, but the underlying facts support such a claim."
5. The tribunal has heard nothing more from the claimant.
6. The respondent has provided a list of issues and a completed agenda prior to this hearing and I was told by the respondent's representative, and accept, that an email had been sent the claimant on 1 September 2026 at approximately 2 pm containing that agenda and list of issues, as well as a bundle. The covering email had reminded the claimant of the date and time of this hearing.
7. At 14:05, I emailed the Bristol employment tribunal listing team to enquire as to whether they had heard anything from the claimant and received no reply to the email. By 14:30 the claimant had not attended at the hearing. The respondent had heard nothing from the claimant. There was nothing on the file to suggest any reason for the claimant's absence

The Reasons for the Decision to Strike Out

8. Rule 47 Employment Tribunal Procedure Rules 2024 provides:
 47. 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.
9. In my judgment, the strike out warning in respect of the unfair dismissal claim was well-founded and the unfair dismissal claim was liable to be struck out on

the basis that the claimant did not have qualifying service. According to the claim form, the claimant was employed between 24 July 2023 and 2 July 2025. If one week's statutory notice was added to the claimant's length of service pursuant to section 97(2) Employment Rights Act 1996, the claimant's termination date would be 9 July 2025. He still would not have two years qualifying service. The claimant's reasons for not striking out his claim form do not present a justification for not striking it out. The period of service cannot be extended in order to take account of the length of time which a fair disciplinary procedure would have taken.

10. The claimant has not made a breach of contract claim. Even if I were to treat the application of 24 November 2025 as an application to amend the claim form, the claimant has not attended at this hearing to pursue such an application. Such a claim would either be for notice pay or the claimant would have to show that the disciplinary procedures were contractual. The claimant has not suggested that the disciplinary procedures were contractual nor provided any justification for any such suggestion. A breach of contract claim would be out of time.
11. A breach of contract claim would be a stand-alone cause of action and not impact on the unfair dismissal claim. I am satisfied that the unfair dismissal claim would inevitably be dismissed on the basis that the claimant did not have two years qualifying service. Because it is inevitable that would be the outcome, it is appropriate to dismiss that part of the claim pursuant to rule 47 given that the claimant has not attended.
12. That leaves the claim for discrimination on the grounds of sexual orientation. In respect of the dismissal, the claimant has pleaded no facts from which the tribunal could conclude that the claimant was dismissed because of his sexual orientation. The claimant has provided his own, non-discriminatory, explanation for the dismissal which is that despite having been told that he could not take annual leave on 10 June 2025, nevertheless he took that leave. The claimant seeks to characterise a simple unauthorised absence, it might just as easily be characterised as a deliberate refusal to obey a manager's instruction. If one simply has regard to the circumstances of the dismissal, there are no facts from which the tribunal could conclude the dismissal was because of sexual orientation.
13. The claim form does, however, go slightly further in that in the last line of part 8.2 it states, "There were also multiple comments made about me being sent to Saudi Arabia and not being allowed back due to my sexuality." The claim form gives no particulars, it does not say what was said, when the comments were made or who made the comments. Even taking account of that part of the claim form, a tribunal could not properly conclude that the dismissal was because of the claimant's sexual orientation. There is, for instance, no suggestion that the comments were made by the same person who took the decision to dismiss the claimant.
14. The allegation in relation to comments about Saudi Arabia might give rise to a valid claim of discrimination in themselves. However further particularisation is

needed. The respondent cannot know the case it has to meet on the basis of the pleaded claim. In circumstances where the claimant has not attended this hearing, the only practical way of obtaining that information would be to have a further hearing. Simply making order that the claimant provide further particulars is usually unsuccessful. It is difficult to see why, when the tribunal has provided a hearing for the claimant to attend and he has not done so, the respondent should be put to the inconvenience of either a further hearing or attempting to understand any response to an order for further particularisation. The purpose of this case management hearing was to identify the claims and the issues in the claim and give directions for the final hearing.

15. In all the circumstances, where the claim cannot be simply listed for a final hearing at this hearing because the respondent does not know the case it has to meet, where the claimant has not attended this hearing or given any reason for not doing so, when I am satisfied that the claimant was told about this hearing by the tribunal and the respondent and I am also satisfied that the claimant has not complied with the order that he must fill in and return the agenda to the tribunal and the respondent and having considered the overriding objective, I have decided that it is appropriate, pursuant to rule 47 to dismiss the claim.

Employment Judge Dawson

Date 3 September 2026

JUDGMENT SENT TO THE PARTIES ON
24 September 2026

Notes

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Recording and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. 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:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>