Case Number: 6004910/2025

EMPLOYMENT TRIBUNALS

Claimant: **Ike Obianyo**

Respondent: **Stevenage Borough council**

Heard at: **Bury St. Edmunds (in public; by video)**

On: **22 September 2026**

Before: **Employment Judge Illing**

Representation
Claimant: In person
Respondent: Ms J Majithia (Counsel)

JUDGMENT

1. The claim is struck out under Employment Tribunal Rule 38(1)(b) because the manner in which the proceedings have been conducted has been scandalous, unreasonable or vexatious.

2. The claim is struck out under Employment Tribunal Rule 38(1)(c) because the claimant has not complied with the Tribunal Rules or a Tribunal order.

3. The claim is struck out under Employment Tribunal Rule 38(1)(d) because it has not been actively pursued.

SUMMARY REASONS

JUDGMENT with summary reasons was given at the hearing on **22 September 2026** and written summary reasons were requested at the hearing in accordance with Rule 60 of the Employment Tribunal Procedure Rules. The following written summary reasons are therefore provided:

1. This is an application by the Respondent to strike out the Claimant's claim further to the application of Rule 38 of the Employment Tribunal Rules of Procedure 2024.

2. The relevant Rule is as follows:

38. Striking out

(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.*

3. This is a claim that was filed in March 2025. There was a case management hearing before Employment Judge Hunt on the 24 March 2026, and written orders were sent to the Parties on 08 May 2026. This case was listed for final hearing on 22, 23 and 24 September 26.

4. It is the Respondent's application that the Claimant has not complied with the Orders of the Tribunal. He has not engaged in the disclosure process and he has not offered a witness statement to exchange with the Respondent.

5. The Respondent has prepared the final hearing bundle and provided this to the Claimant. They have also prepared the witness statements and are ready for exchange. However, the final hearing has been vacated to hear this application by the Respondent.

6. Both the Respondent and the Claimant were permitted to make oral submissions to the Tribunal before any decision was made.

7. The first question I must ask myself is whether any ground within Rule 38 is made out, before I ask the next question, which is to consider whether to exercise my discretion to strike out the claim (*Hasan v Tesco Stores Ltd UKEAT/0098/16*). I also note that strike out of a claim is a draconian sanction and I must also consider whether a lesser sanction is available.

8. I first consider 38(1)(d) and ask if the Claimant has failed to actively pursue the claim. If I find that this is the case, I will consider whether that conduct was unreasonable 38(1)(b)

9. I have considered *Rolls Royce plc v Riddle [2008] IRLR 873*and consider the following:

9.1. Has there been delay that is intentional or contumelious, i.e. disrespectful to the Court, or

9.2. has there been an inordinate and inexcusable delay which gives rise to a substantial risk that a fair hearing is impossible, or which is likely to cause serious prejudice to the respondent.

10. The Claimant has explained to me that he did not engage in the process because of fear of engagement. He stated that he struggled at the preliminary hearing and he was fearful to engage with the Respondent. He says that he takes responsibility for not complying with the dates and times and that he would engage with the process if the claim is permitted to continue. He also says that he was expecting the instructions from the Tribunal within weeks, but that they did not come.

11. The Claimant has not provided any evidence as to why he is fearful to engage. There does not appear to be any underlying medical condition. The Orders were sent to the Parties 6-weeks after the hearing, but they were sent and detailed exactly the actions required of both Parties. The dates for compliance were still achievable even following the short delay in the sending of the Orders to the Parties.

12. The Respondent first raised its concerns with the Tribunal on 05 August 2026. The Claimant was included in that correspondence. Had the C engaged with the process at that time, the final hearing in September would still have been achievable. But he did not. The Claimant continued to fail to engage with the Tribunal or the Respondent until the 18 September, giving only 1 working day between his email and the start of the final hearing. The hearing was vacated because of the Claimant's ongoing failure.

13. The Claimant has not engaged with anyone. There is no reason for this, and I consider that that failing is intentional, and that has led to inordinate and inexcusable delay by the Claimant. I also find that the failure to engage until immediately before the final hearing is unreasonable conduct by the Claimant.

14. Before I consider whether a fair trial is still possible, I have considered 38(1)(c) regarding non-compliance.

15. As detailed above, the Claimant has not engaged in the process and I am satisfied that he has not complied with any of the orders set out by Employment Judge Hunt to prepare this claim for the final hearing. That non-compliance has resulted in the vacation of the hearing dates.

16. I need to consider whether a fair trial is still possible for 38(1)(b), (c) and (d) and must do so taking into account all of the circumstances, including the overriding objective. *Weir Valves and controls v Armitage [2004] ICR 371* at paras 16 and 17 directs me to guidance of what to consider.

17. The circumstances of the claim are that the alleged discriminatory acts that resulted in the Claimant's dismissal took place on 04 October 2024 and continued until 24 April 2025 when his grievance appeal was not upheld.

18. In considering the magnitude of the default, the Claimant has wholly failed to comply with any of the orders. This was his responsibility. The result of the Claimant's failure has been the vacation of the 3-day hearing, at short notice.

The Respondent has incurred costs in preparing for the final hearing and will have to do so again as the Claimant has not yet begun disclosure, so we would be going back to square one.

19. The Tribunal and the Respondent have been prejudiced by the Claimant's failure. The Respondent will be required to complete further orders and take more time and cost to prepare for a hearing, which, having reviewed the hearing estimate could be between July 2027 and February 2028, so a delay of at least a year. I consider that this prejudice to the Respondent is serious.

20. Regarding a fair trial, I must consider whether this is possible without undue expenditure of time and money and with proper regard to the demands of other litigants upon the finite resources of the Court. (*Arrow Nominees v Blackledge [2000]2BCLC 167, para 55*). I must consider how to deal with this application that is both fair and just. I have considered whether a fair trial is still possible, but without undue expenditure of time and money, I am not satisfied that it is.

21. In exercising my discretion to determine whether to strike out this claim, I am conscious that there is an alternative sanction, being the Unless Order, to require the engagement of the Claimant.

22. I must also consider whether a strike out is proportionate in these circumstances. I am also conscious that the Claimant has flagrantly failed to comply with the Orders or even maintain communication with either the Respondent or the Tribunal throughout the entire process until immediately before the final hearing, when he is seeking disclosure and so we are back to the beginning of the process for the claim.

23. I am conscious of the extent of the failings by the Claimant and the lack of reason for that. I am conscious that a new hearing date will be at least another year away. I am conscious that the whole claim is back to square one for disclosure and witness statements. Further disclosure required by Claimant may require amendments to the bundle and to the witness statements which the Respondent has already prepared.

24. I have considered whether the draconian sanction of a strike out is proportionate in these circumstances and I have also considered alternative sanctions, such as an Unless Order.

25. In all of these circumstances I am satisfied that it is proportionate where the Claimant has wholly failed to engage at cost and serious prejudice to the Respondent and the Tribunal to order that the Claim is struck out in its entirety.

Approved by:

Employment Judge Illing

22 September 2026

JUDGMENT SENT TO THE PARTIES ON
1 November 2026

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FOR THE TRIBUNAL OFFICE

Notes

Written full reasons will not be provided unless requested by any party by a written request received by the Tribunal within 14 days of the sending of the written summary reasons.

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