Case Number: 6013252/2026

EMPLOYMENT TRIBUNALS

Claimant: Steven Cain

Respondent: North Star Shipping

JUDGMENT

The claim is struck out.

REASONS

1. The Tribunal wrote to the claimant on 24 June 2026 warning them that the Tribunal was considering striking out the claim. This was because it appeared to the Tribunal, applying Rule 38 of the Employment Tribunal Procedure Rules 2024, that

    - the tribunal does not have any jurisdiction to deal with the unfair dismissal claim that the claimant has raised and the claim had no reasonable prospect of success;

2. The letter gave the claimant an opportunity to explain why the claim should not be struck out, or to request a hearing at which to do so. In a letter to the tribunal dated 2 July 2026, the claimant accepts that he has less than two years service but argues that his employer breached his contract by failing to follow contractual procedures and in particular the right to an appeal.
3. For the purposes of this decision it is assumed that that what the claimant is saying is correct. However, that does not give him a right to bring an unfair dismissal claim, which still requires and to have two years of service.
4. Further, from the documents the claimant has sent to the tribunal it is noted that he was dismissed with notice. Hence no wrongful dismissal claim arises in respect of notice.
5. On 28 September 2026, the claimant applied to amend his claim to include a wrongful dismissal claim. The claimant was paid notice pay. Such a claim would be based only on the refusal of an appeal. In relation to such a claim, the tribunal would need to assume that even if an appeal had been given, the

claimant's contract would still have been terminated (see the Lavarack case). Therefore, assuming the appeal would have been held within the notice period, no compensation would be payable.

6. In any event, the amendment is refused because the time limit for bringing a wrongful dismissal claim, expired three months less a day after termination, plus any ACAS early next conciliation extension. Early conciliation only lasted five days and therefore would have limited impact. The claim would still be nearly 3 months late and there is no reasonable prospect of the tribunal finding that it was not reasonably practicable for the wrongful dismissal claim to have been submitted in time.

7. I am satisfied that in these circumstances, the grounds for striking out the claim under Rule 38 apply, and that it would be in accordance with the overriding objective in Rule 3 to refuse the amendment and strike out the claim.

8. The claim is therefore struck out.

Approved by:

Employment Judge James

Date: 28 October 2026