EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4103512/2025

Held in Glasgow on 9 October 2026

Employment Judge O'Donnell

Ms S Clarkson	**Claimant** **Not Present** **& Not Represented**
British Telecommunications Plc	**Respondent** **Represented by:** **Ms Mathews** **(Trainee Solicitor)**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The judgment of the Employment Tribunal is that:-

1. EE Ltd was the claimant's employer and is, therefore, the correct respondent. The Tribunal exercises its power under Rule 35 to substitute EE Ltd as the respondent.
2. The Tribunal has no jurisdiction to hear the claim of unfair dismissal under the Employment Rights Act 1996 and so it is hereby struck out under Rule 38 as having no reasonable prospects of success.
3. The claimant is ordered to set out, in writing, her reasons why her claim should not be struck out under Rule 38(1)(b) for unreasonable conduct of the proceedings and/or under Rule 38(1)(d) for failure to actively pursue the claim within 14 days of the date this judgment is sent to parties. If the claimant wants the Tribunal to fix a hearing so that she can put forward her reasons in person then she should do so within the same timescale.

REASONS

Introduction

1. The claimant has brought various complaints against the respondent. A number of preliminary issues arose and the present hearing was listed to determine these.

2. The claimant did not attend the hearing. She did not send any correspondence in advance of the hearing indicating that she was not going to attend or seeking a postponement of the hearing. The clerk contacted the claimant by telephone to confirm the position and she stated that she was not going to attend and that she was "going to the public".

3. This is not the first time that the claimant has failed to attend a hearing and I will address the consequences of this below. Having heard from Ms Mathews on behalf of the respondent, I decided to exercise my discretion under Rule 47 to proceed with the hearing in the claimant's absence; the case remains live and there are important matters which need to be addressed without further delay; the claimant had chosen not to attend rather than being unable to attend for reasons beyond her control.

4. I decided that I would proceed to deal with the issues of the identity of the respondent based on the material presented by parties in correspondence and in the file of productions prepared by the respondent. I also decided that I could address the issue of whether the claim for unfair dismissal should be struck out on the basis of the material presented by parties in correspondence and given that the claimant had been afforded to opportunity to make representations about this in terms of Rule 38(2).

5. The issue of amendment was not decided and is held over for determination until it is clear whether the claim is proceeding.

Identity of respondent

6. The correct respondent for the various claims being pursued by the claimant is the person who was her employer, that is, the person with whom the claimant has a contract of employment.

7. The respondent has produced a copy of the contract between the claimant and EE Ltd at p115 of the file of productions. In the absence of anything to the contrary from the claimant, I consider that this document is an accurate representation of the employment relationship. It clearly and unambiguously states that EE Ltd is the claimant's employer.

8. The claimant's position on this issue is that she worked at BT premises and dealt with BT staff when at work. However, none of this is relevant to the question of who her contract of employment was with especially given that the claimant accepts that she was paid by EE Ltd.

9. In these circumstances, I consider that EE Ltd was the claimant's employer and is, therefore, the correct respondent. I exercise my power under Rule 35 to substitute EE Ltd as the respondent.

Strike-out of unfair dismissal claim

10. One of the claims being pursued is a claim of unfair dismissal under the Employment Rights Act 1996.

11. The claimant does not have the two years' service which is normally required for the Tribunal to hear a claim of unfair dismissal in terms section 108(1) of the Employment Rights Act 1996. Further, the ET1 does not, on the face of it, plead a claim of "automatic" unfair dismissal for which the two year rule is disapplied.

12. In the Note of the preliminary hearing held on 5 January 2026 and sent to parties on 7 January 2026, the Tribunal warned the claimant that it was considering striking out the claim of unfair dismissal under Rule 38 of the Rules of Procedure on the basis that it had no reasonable prospects of success given that the claimant did not have the necessary length of service.

13. The claimant was given an opportunity to object to the unfair dismissal claim being struck out and to seek a hearing in relation to this matter. She provided comments in an email of 13 May 2026; she did not seek a hearing and the comments were focussed on the merits of any unfair dismissal claim rather than the jurisdictional issue of length of service.

14. The claimant has not sought to argue that she has the necessary length of service required by s108 of the 1996 Act nor has she sought to argue that she was dismissed for a reason for which that requirement would be disapplied.

15. On this basis, the Tribunal has no jurisdiction to hear the claim of unfair dismissal under the Employment Rights Act 1996 and so it is hereby struck out under Rule 38 as having no reasonable prospects of success.

Further procedure

16. This is now the second occasion where the claimant has not attended a Tribunal hearing having previously not attended the case management hearing on 5 January 2026.

17. I consider that it is worth setting out the circumstances in which the claimant did not attend that previous hearing:-

    a. By email dated 18 December 2025, the claimant stated that she did not intend to attend the hearing and was "posting all my evidence online for everyone to see".
    b. On 31 December 2025, the claimant stated that she was "too sick" to attend the hearing. This was treated as an application to postpone the hearing which I refused for reasons set out in a letter dated the same

day. In summary, the application did not comply with the Presidential Guidance on postponements and did not explain why the claimant was going to be unfit to attend a hearing that was not calling for another 5 days.

c. The claimant repeated her assertion that she is unfit to attend in subsequent correspondence but did not provide the necessary information for a postponement to be granted.

18. I note that the reasons given by the claimant over the telephone for not attending the present hearing are the same set out in her email of 18 December 2025.

19. The claimant has engaged in correspondence with the Tribunal since the case management hearing on 5 January 2026. In particular, she complied with Orders made at that hearing although not within the timescales set out in the Order and only after reminders were sent by the Tribunal.

20. I consider that, on the face of it and without any explanation by the claimant, the refusal to attend the hearings that have been listed in this case potentially amounts to unreasonable conduct of the proceedings; the claimant has indicated an intention not to engage with the proceedings (and pursue her issues with the respondent in some other way) but has not withdrawn her claim. This means that the case still has to be dealt with and puts the respondent to the time and expense of doing so.

21. Further, the failure to attend hearings and engage with the process is, on the face of it, a failure to actively pursue her case.

22. In these circumstances, I am, of my own motion, considering striking out the claim under either Rule 38(1)(b) or Rule 38(1)(d). The claimant must be given an opportunity to make representations about this in terms of Rule 38(2).

23. I, therefore, order that the claimant should set out her reasons why her claim should not be struck out in writing within 14 days of the date this judgment is sent to parties. If the claimant wants the Tribunal to fix a hearing so that she can put forward her reasons in person then she should do so within the same timescale. She must copy any communication to the other party and confirm to us that she has done so.

24. If nothing is heard from the claimant in the timescale set out above then I will decide whether to strike out her claim on the basis of the information which is otherwise available.

Date sent to Parties **23 October 2026**