



EMPLOYMENT TRIBUNALS

Claimant: Mr S Davies
Respondent: Sainsbury's Supermarkets Limited
Heard at: Leeds On: 18th August 2017
Before: Employment Judge Lancaster

Representation

Claimant: Did not attend
Respondent: Mr P Gorasia, counsel

JUDGMENT

The claim is dismissed

REASONS

1. The Claimant failed to attend.
2. The preliminary hearing was originally listed by notice dated 30th June 2017. Although an amended notice of hearing was then sent on 9th August 2017 with a revised 3 hour time estimate the date and start time (10 o'clock) remained unaltered.
3. The Claimant was telephoned on both numbers which he had provided to the tribunal and there was no reply on either.
4. The tribunal adjourned until 10.30 am to allow for the possibility that the Claimant had been delayed. He still had not arrived by this time and had made no contact with the tribunal.
5. This was listed as an open preliminary hearing to determine if appropriate whether any part of the claim has no or little reasonable prospect of success. In the absence of the Claimant to explain his case there would have been no point in conducting a hearing.
6. The Claimant has ticked boxes on the Claim Form (ET1) to indicate that he is bringing complaints of "whistleblowing" and discrimination on the grounds of sexual orientation and disability as well as unfair dismissal.

Case: 1801010/2017

7. There is, however, no indication on the ET1 as to what he says was a protected disclosure nor as to what detriment he has allegedly been subjected to, either because of making that disclosure or because of either protected characteristic. Indeed the Claimant does not even specifically identify what his sexual orientation is or what disability he has; indeed on the ET1 he has ticked also the box to say he does not have a disability.
8. On the unfair dismissal claim it is, on the face of it a straightforward conduct case involving what is categorised within the Respondent's disciplinary procedures as gross misconduct. Although the original decision was taken in the Claimant's absence when he was not present on the listed date there does appear to have been a full rehearing at the appeal stage. It is unclear therefore on what specific basis it is alleged that this dismissal, ostensibly for a potentially fair reason, was either substantively or procedurally unfair.
9. In the circumstances, as the claim has not been actively pursued at this preliminary hearing, I consider that the appropriate course is to dismiss in its entirety it under rule 47 of the Employment Tribunals Rules of Procedure 2013.

EMPLOYMENT JU DGE LANCASTER

DATE 18TH August 2017