



# EMPLOYMENT TRIBUNALS

**Claimant**

**Respondent**

**Mr S Kurek**

**v**

**S.H. Pratt & Co (Bananas) Ltd**

**Heard at:** Watford

**On:** 26 March 2018

**Before:** Employment Judge Bedeau

## **Appearances**

**For the Claimant:** non-attendance

**For the Respondent:** Mr D Smith, Consultant

## **JUDGMENT**

Proceedings are dismissed under Rule 47 Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 as amended.

## **REASONS**

1. By a claim form presented to the tribunal on 16 November 2016, the claimant claimed against the respondent unfair dismissal and breach of contract. The breach of contract claim being wrongful dismissal, in that she was not given notice pay. In the response presented to the tribunal on 3 January 2017, it is averred that the claimant was not dismissed for gross misconduct, but had been the subject of an extended final written warning and there were subsequent disciplinary breaches resulting in the termination of his employment.
2. I was satisfied from reading the file, that the claimant had earlier in proceedings been represented, although there were concerns about his first representative being fully qualified to represent him.
3. A preliminary hearing held on 9 June 2017 at which this case was listed for a six days hearing to commence on 26 March 2018. Orders were made by Employment Judge Henry on that occasion, having clearly identified the basis

of the claimant's claims. The parties were to give mutual disclosure of documents by list with copies by 23 June 2017; witness statements by 11 August 2017; the bundle of documents to be prepared by the respondent and served on the claimant by 14 July 2017. The claimant to submit his schedule of loss by 23 June 2017.

4. I have read the letter sent to the tribunal by the respondent's representative, Mr Daniel Smith, setting out the chronology in this case and the claimant's apparent failure or reluctance to comply with the tribunal's orders. Indeed, that matter was alluded to by Employment Judge Manley, who stated that the claimant appeared not to be actively pursuing his claims before this tribunal.
5. The claimant, I am satisfied, failed to assist the respondent's representatives in the preparation of the joint bundle and had not provided the respondent with his and his witnesses' statements. He failed to correspond with the respondent's representatives and failed to attend this hearing today without explanation. In addition, because of his Polish nationality and his difficulty in communicating effectively in English, the tribunal listed this case for hearing for him to be assisted by an interpreter fluent in Polish and in English.
6. As already stated the claimant has not given any indication as to his reasons for his non-attendance today. I am satisfied that he has deliberately absented himself from this hearing.
7. I have regard to rule 47 of the Tribunals Rules of Procedure 2013 which states "If a party fails to attend or to be represented at the hearing, the tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it shall consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence."
8. The claimant has only submitted a schedule of loss in addition to further and better particulars. Apart from those documents there is nothing in the file from him that would enable me to form a view about the merits of his case. Accordingly, having regard to rule 47, I have come to the conclusion that the course of action to adopt, based on the claimant's conduct, is to dismiss proceedings against the respondent.

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Employment Judge Bedeau

Date: 10 April 2018

Sent to the parties on: .....

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For the Tribunal Office