



EMPLOYMENT TRIBUNALS

Claimant Mr R Iftikhar

Respondent Mr A Shah

PRELIMINARY HEARING

Heard at: Reading **On: 11 May 2018**

Before: Employment Judge Gumbiti-Zimuto

Appearances

For the Claimant: Not attending and not represented

For the Respondent: In Person

DISMISSAL JUDGMENT

1. The claimant presented complaints to the Employment Tribunal in a claim form dated 21 November 2017. The claimant made complaints of unfair dismissal, discrimination on the grounds of religion and belief, and various money claims. Mr Asim Shah was the claimant's employer. He has presented a response in which he denied the claimant's complaints and defends the case.
2. The matter has been listed for a preliminary hearing to conduct a preliminary consideration of the claim with the parties and make a case management order (including an order relating to the conduct of the final hearing). The claimant and respondent were sent notice of this hearing on the 30 November 2017.
3. The claimant failed to attend the preliminary hearing. At about 2.15 pm the claimant was contacted by employment tribunal staff using the telephone number he provided in his claim form. The claimant was asked why he was not in attendance at the hearing. The claimant's response was that he was at work and he was not intending to attend. The preliminary hearing therefore commenced in the claimant's absence.
4. The Employment Tribunals Rules of Procedure 2013 provide:

Non-attendance

47. 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.

5. Mr Shah asked me to dismiss the claim. Mr Shah contends that the claimant's claims are based on a series of untruthful statements. Mr Shah explains in his response the circumstances that he says led to the claimant's dismissal. Mr Shah alleges that the claimant has behaved dishonestly towards him during his period of employment and has been dishonest in the content of his claim form.
6. Mr Shah was accompanied by Mr Iqbal. I was informed by Mr Iqbal that the claimant had "asked him to come to the tribunal and say things that were not true to get Mr Shah in trouble". Mr Iqbal informed me that when he told the claimant that he was not going to lie, the claimant told him that he was not going to come to the tribunal.
7. I am satisfied that the claimant was aware of the hearing date and time. I am also satisfied that the claimant made the choice to go to work rather than attend at the preliminary hearing of the claim he presented.
8. I am also mindful of the number of cases awaiting hearing in the employment tribunal and note that a preliminary hearing for this case, if re-listed in accordance with the current listing timescales it would be listed to take place on or after the 18 February 2019 and that one-day hearings are not being listed for hearing until on or after 18 March 2019.
9. I have regard to the overriding objective which is to enable Employment Tribunals to deal with cases fairly and justly, noting in particular the need to avoid delay and saving expense. It would not be appropriate to list this case without a preliminary hearing to conduct a preliminary consideration of the claim with the parties and make a case management order (including an order relating to the conduct of the final hearing). The claimant's actions in deliberately choosing to go to work and not attend this hearing has resulted in other cases that could have been heard today being delayed and it has also resulted in the waste of public funds in convening the hearing today. I also note that Mr Shah has attended today and if I was to relist the case for further preliminary hearing this would result in Mr Shah being put to addition expense in attending on that occasion.
10. In the light of all the above I am satisfied that the appropriate course of action is to dismiss the claim pursuant to rule 47.

Employment Judge Gumbiti-Zimuto

Dated: 11 May 2018

Sent to the parties on:

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For the Tribunal:

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