

EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: S/4105345/2017

5

Held in Glasgow on 11 January 2018

Employment Judge: Mr R Gall

10 **Miss J Watson**

**Claimant
Not Present and
Not Represented**

15 **Northern Star Leisure Ltd**

**Respondent
Represented by:
Mr J Stewart –
Manager**

20

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

25 The Judgment of the Tribunal is that in circumstances where there was a failure by the claimant to attend or to be represented at the Hearing, having considered information available to it and having attempted to make contact with the claimant without success, the claim is dismissed in terms of Rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

30

REASONS

1. This case was set down for Hearing on 11 January 2018 at 10am. That was communicated to the claimant at the time of acknowledgement of her claim. That was in terms of a letter from the Tribunal of 30 October 2017.
2. Following upon an initial consideration of the claim and response to it, the
5 Hearing was extended from one hour to one day. The Hearing remained set for 11 January 2018 at 10am. The amended Notice of Hearing was sent to both parties on 28 December 2017.
3. At 10am on 11 January when the case was due to commence, Mr Stewart was present for the respondents. There was no appearance for the claimant.
10 There had been no contact with the Tribunal from the claimant prior to the Hearing date.
4. The claimant did not disclose in the claim form a telephone contact point whether by way of mobile number or landline number. She did enter an e-mail address.
- 15 5. In the circumstances of non-attendance by the claimant at the time set for commencement of the Hearing, the Clerk to the Tribunals sent an e-mail to the claimant at the request of the Employment Judge. That e-mail highlighted that the claim was due to proceed at 10am on 11 January. It had asked that the claimant contact the Clerk by telephone. The e-mail was sent soon after
20 10am.
6. By 10.30am there was no contact from the claimant whether by telephone call or return e-mail.
7. In those circumstances, the Hearing was convened.
8. Consideration was given to the claim form and response. It appeared from
25 the response that the respondents agreed that an element of wages was due to the claimant. There was a dispute as to holiday pay and any payment in respect of notice.
9. Mr Stewart confirmed to me that from the respondents' perspective any sums due to the claimant had been paid to her.

10. In terms of Rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, if a party fails to attend or to be represented at a Hearing, the claim may be dismissed or it may proceed. A Tribunal is to consider the information available to it after any enquiries which may be practicable about the reasons for the absence of the party.

11. In this case there were no reasons available for absence of the claimant. An attempt had been made to contact her through the only means available for urgent contact. That had not resulted in any reply from the claimant. I had regard to the content of the claim form and the response, without testing the evidence where that was disputed. I had regard to confirmation being given by the respondent that any sums which the respondent regarded as being payable to the claimant had been paid. The respondent also confirmed to me that there had been no contact from the claimant with the respondents in the lead up to the Hearing date. I was conscious that the Hearing date had been intimated on two occasions to both parties.

12. I concluded in the circumstances that it was appropriate to dismiss the claim in light of the non-attendance by the claimant and having regard to the factors just mentioned. The claim is therefore dismissed.

20

Employment Judge: Robert Gall
Date of Judgment: 12 January 2018
Entered in register: 15 January 2018
and copied to parties

25

30

5

10