



EMPLOYMENT TRIBUNALS

Claimants

Mr S Sefer Ramadan
Mr Y Yordanov

v

Respondent

1. H&H Fried Chicken & Kebabs
2. Mr Mehmet Saglam
3. KM Fast Food Ltd
4. HAS Catering St Albans
5. GMK Stores Ltd
6. Mr Hussan Husseyn
7. Mrs Gulzar Saglam
8. Mr Gokhan Saglam

PRELIMINARY HEARING

Heard at: Watford

On: 22 March 2019

Before: Employment Judge Bedeau

Appearances:

For the Claimants: Mr K Ali, Friend
For the Respondents: Mr Gokhan Saglam, 8th Respondent

JUDGMENT

1. Under Rule 47, Schedule 1, Employment Tribunals (Constitution & Rules Procedure) Regulations 2013, as amended, all claims against the respondents are dismissed.

REASONS

1. The claimants presented claims against the respondent on 1 December 2017. They allege that they had not been paid their proper wages and were paid net in cash. They neither received payslips nor contracts of employment and were dismissed by the respondents without notice.
2. Their claims are denied by the respondents.

3. The case came before Employment Judge Wyeth on 29 March 2018, who listed it for an open preliminary hearing on 16 April 2018 for an Employment Judge to: identify the correct respondent; whether or not the claimants had complied with ACAS early conciliation; the respondents' application to present a response out of time; to clarify the claims being pursued by the claimants; to determine whether to issue either a strike out or deposit order, and whether the claims should be consolidated.
4. The preliminary hearing was postponed by EJ Wyeth and relisted on 23 April 2018, before Employment Judge Henry, who postponed it to 9 July 2018 as the claimants did not attend, only Mr Kosor Ali, their friend, was in attendance. The learned Judge also recorded that the claimants would require assistance of an interpreter fluent in Bulgarian, Turkish and English.
5. On 6 July 2018, the Regional Employment Judge decided to postpone the hearing as it was unlikely to be heard as listed on 9 July 2018.
6. In a notice sent to the parties on 4 October 2018, informing them that the case was now listed to be heard on 22 March 2019 at 10am with a time estimate of one day. The tribunal communicated with Mr Ali, the friend, who has been representing them.
7. On 21 March 2019, the tribunal reminded the parties that the case was listed for hearing today at 10am. That email communication was sent at 2.20pm. Some four minutes later, Mr Gokhan Saglam stated that he would be attending. However, at 4.59 in the afternoon, Mr Ali informed the tribunal that the claimants had not returned to the United Kingdom for the hearing and were in Turkey. He requested an adjournment and apologised for the late communication.
8. It was too late to consider the application as it was sent one minute prior to the end of the tribunal's office hours.
9. Mr Ali attended on their behalf and Mr Gokhan Saglam attended on behalf of the respondents.
10. Mr Ali told me that he was not feeling well earlier this year and had not been able to correspond with the claimants. I was not provided with medical evidence in support of his statement. He confirmed that the claimants are still in Turkey, believed to be working there. He could not offer any further explanation for their absence and why they have failed to update themselves on the progress of their cases.
11. I considered the position under Rule 47, Schedule 1, Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, as amended, which states the following:

“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.”

12. Mr Ali submitted that the fault was his and asked for a further adjournment on behalf of the claimants. Mr Saglam submitted that claimants have an unmeritorious case against the respondents and have caused the respondents considerable inconvenience and expense. He invited me to strike out the claims.

Conclusion

13. I considered the documents in the file. It does not appear that there has been clarification of the claimants’ claims against each respondent, notwithstanding the fact that the claim form was presented on 1 December 2017. The claimants were absent on the last occasion and have failed to make any enquiries about the re-listing of their case following the last hearing. To compound matters, Mr Ali did not inform them about the hearing today in order that they may make the necessary travel arrangements. The issues to be considered involve jurisdiction and is important that the claimant be present to give their accounts of events.
14. I was not satisfied that Mr Ali has given me a good reason for their absence. No attempt has been made to progress this case for an effective hearing today. The interpreter who attended, had to be discharged. Expense has been incurred by the respondent in having to attend this hearing. I considered my powers under Rule 47 and decided that the claims against the respondents should be dismissed.

Employment Judge Bedeau

Date: 4 June 2019

Sent to the parties on:

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For the Tribunal:

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