



EMPLOYMENT TRIBUNALS

SITTING AT: LONDON SOUTH

BEFORE: EMPLOYMENT JUDGE FRANCES SPENCER

BETWEEN: MR M JABARIN CLAIMANT

AND

ELEGANT INTERNATIONAL COLLEGE LIMITED

RESPONDENT

ON: 27TH APRIL 2018

Appearances

For the Claimant: No appearance
For the Respondent: Mr D Brown, counsel

JUDGMENT

The Claimant having failed to attend or to be represented at the hearing and pursuant to Rule 47 of the Employment Tribunal Rules of Procedure 2013 the claim is dismissed.

REASONS

1. This was claim for unpaid wages/breach of contract by the Claimant who has Finnish nationality and worked and lives in Dubai. Following a telephone case management discussion, the case had been set down for a preliminary hearing today to consider a number of jurisdictional matters raised by the Respondent including (i) whether the Claimant had been employed by the Respondent or an entity resident in Dubai, time issues and issues of territorial jurisdiction. There were issues of fact to be determined.

2. Conscious of the fact that the Claimant said that he lived in Dubai, the hearing today had been fixed having taken into account the dates that the Claimant had said that he would be available to travel to London. Notice of hearing was sent to the parties on 15th March 2018.
3. Yesterday at 18.20, after close of business, the Claimant emailed the Tribunal to say that “for family reasons” he could not attend the hearing today and asked for a postponement for a month or two to get his personal matters settled in Finland. No further details were given. The only telephone number that we had for the Claimant not a UK number. I asked for the Claimant to be telephoned to understand better the reasons why he could not attend but the Tribunal lines cannot make international calls.
4. Mr Brown for the Respondent submitted that the claim be dismissed under Rule 47. The application for a postponement was made extremely late and the reasons for non-attendance were wholly inadequate. It was not clear whether the Claimant had traveled to the UK or was abroad. As he had been required to travel to the UK for today’s hearing the Claimant must have known before 18.20 last night that he would not be able to attend the Tribunal. It was disrespectful to the Tribunal for the application to have been so late in the day.
5. I accepted the submission that the application for a postponement was both inadequate as to the reasons why the Claimant could not attend and extremely late. The hearing had been fixed in April, having considered the Claimant’s availability to travel. There were matters of fact to be determined which required evidence and I could not sensibly determine the issues in the Claimant’s absence. Accordingly, and pursuant to Rule 47, the claim is dismissed.
6. Mr Brown’s application that the Claimant pay the Respondent’s costs incurred in defending the claim is refused. Although the Claimant has not appeared today (and has not made a timely or sufficient application for postponement) the claim has been dismissed at a relatively early stage in the proceedings and the merits of the claim have not been determined.

Employment Judge F Spencer
Date: 27th April 2018