



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr R Haque  
**Respondent:** London Borough of Tower Hamlets  
**Heard at:** East London Hearing Centre  
**On:** 15 October 2019  
**Before:** Employment Judge Burgher  
**Members:** Mr P Quinn  
Mrs A Berry

## Representation

**Claimant:** No attendance or representation  
**Respondent:** Ms S Keogh (Counsel)

# STRIKE OUT JUDGMENT

The judgment of the Tribunal is that the claim is struck out.

## REASONS

- 1 The case was listed for a full hearing and the Claimant did not attend.
- 2 The Claimant had applied for, and was granted a postponement of the hearing that was listed for 8 and 9 of August 2019. The Claimant cited the death of a family member. The postponement was granted on the basis that the Claimant provided a copy of the death certificate of the family member concerned by 14 August 2019. The Claimant did not comply with this order.
- 3 The case was then listed to take place on the 18 and 19 September 2019. However, this was not convenient for the respondent's key witness. The matter was therefore postponed and relisted for a final hearing to take place on 15 and 16 October 2019. The parties were notified of this by letter from the Tribunal dated 12 September 2019.

4 The Claimant did not attend the hearing on the 15 October 2019. However he applied for a postponement of the hearing by email on Sunday 13 October 2019. This application for postponement was refused by Employment Judge Jones on 14 October 2019. In his application for a postponement he asked for the hearing scheduled for the 18 and 19 of November 2019 to be postponed. However the Tribunal is clear from the communication sent on 12 September 2019 and the Respondent's solicitors dated 7 October 2019 that Claimant was aware of the hearing listed for 15 and 16 of October 2019 and this was confirmed by Employment Judge Jones refusal of the postponement by emailed letter of 14 October 2019.

5 On 7 October 2019 the Claimant was informed by the Respondent that they would consider making an application to strike out the Claimant's claim. No correspondence was received from the Claimant in this regard. On 14 October 2019 the Claimant was informed by email that the Respondent had made an application for strike out and given a copy of the application.

6 Ms Keogh on behalf of the Respondent submitted that the Claimant's claim should be struck out for a number of reasons.

7 Firstly, she submitted that the claimant had not complied with the Tribunal orders. She asserted that the Claimant had not provided any disclosure or documentation and had not provided any witness statements to support his position. She concluded that if the Claimant had attended today the case would not have been ready to proceed due to the Claimant's failures in this regard.

8 Secondly she submitted that the case had not been actively pursued. The Claimant has not attended Tribunal and had previously withdrawn a 4 day case against the respondent the day before the final hearing.

9 Thirdly it was submitted that the claim was not properly presented in that there was no ACAS EC certificate for the claim to be able to proceed. The Respondent had undertaken enquiries in relation to the representations made by the Claimant to Employment Judge Hyde in the case management hearing that took place on 21 January 2019. During that hearing the Claimant maintained that he had in fact contacted ACAS and had an ACAS EC certificate number R 106011/19/90.

10 Following the Respondent's enquiries Paul Roberts ACAS conciliator notified them on 6 August 2019 that there was no such early conciliation number recorded on his system and the only number was relating to the previous claim that the Claimant withdrawn. This was number R136695/17. It therefore seems likely that the Claimant had misled Employment Judge Hyde during the case management hearing on 21 January 2019.

11 When considering the Respondent's application the Tribunal had regard to rule 37 of the Employment Tribunal rules and rule 47 of the Employment Tribunal rules which relate to non-attendance for party. It also seems likely that under rule 12 of Employment Tribunal rules the claim should not been accepted at all, given that there was no relevant ACAS EC certificate.

12 Having considered the submissions and the catalogue default by the Claimant the Tribunal strikes out the Claimant's Employment Tribunal claims on the basis of non-

compliance with the Tribunal orders, him not actively pursuing his claim and him not attending the Tribunal.

13 Following the Tribunal delivering judgment on strike out, it received an email from the Claimant dated 14 October 2019 sent at 22.13. It stated that his father's condition has worsened whilst he was at hospital, his father may have had a heart attack and that the Claimant would be with his father for the foreseeable future until his condition changes. The claimant stated that he will therefore not be able to attend the hearing. The Claimant was informed that his postponement application on similar grounds had been refused and as such did not impact on our decision to strike out.

14 Following striking out the Claimant's claims, Ms Keogh applied costs and behalf of the Respondent pursuant to rule 76 of the Employment Tribunal rules. She asserted that the Claimant had acted unreasonably in bringing the proceedings and in conducting them. She cited the misrepresentations that may have been made to Employment Judge Hyde and his failure to comply with Tribunal orders to provide death certificates of the relevant family member, disclosure and witness statements. The Respondent sought the total sum of £10,948.40 in respect of solicitors and counsels' costs. This consists of £7598.40, for 63.32 hours of solicitors the time and £3350 in respect of counsel's fees.

15 The Claimant had not been provided with the schedule of the costs for him to assess and the Tribunal had no evidence in relation to the Claimant means. The Tribunal therefore made the following orders for consideration of the costs application.

16 The Respondent is to email the Claimant a copy of the costs application and the detailed schedule of costs by 15 October 2019.

17 By 29 October 2019 the Claimant is ordered to notify the Respondent and the Tribunal of its response to the Respondent's costs application, specifying his income, assets and outgoings which is necessary to consider the application.

18 By 5 November 2019 the Respondent is ordered to notify the Claimant and the Tribunal of any reply to the Claimant's response to the costs application.

19 The costs application is listed to take place on 26 November 2019 at 10am. The parties will be required to attend the hearing on 26 November 2019 unless otherwise informed by the Tribunal that the hearing will be in held in chambers to consider the written representations.

Employment Judge Burgher

16 October 2019