



EMPLOYMENT TRIBUNALS

Claimant: Ms MB Coleman

Respondent: Elegance Beauty

Heard at: Bury St Edmunds Employment Tribunal

On: 1st October 2019

Before: Employment Judge King

Appearances

For the Claimant: Did not attend

For the Respondent: Mr Noghan

JUDGMENT

The claim is struck out.

REASONS

1. The Claimant failed to attend the hearing and has not provided any valid reason for her non-attendance. She has not made a postponement request. The matter has been listed since January 2019 and the claimant was aware of the hearing.
2. At the claimant's request a Spanish interpreter attended the Tribunal and was released.
3. The claimant's late notification last night has resulted in a waste of judicial resource and interpreter. The respondent attended the hearing and was prepared to deal with the claim.
4. The claim is an old one. It started its life in 2015 before it was struck out due to non-payment of the Tribunal fee. It was reinstated following the Supreme Court decision on tribunal fees. This was in early 2018 and in March 2018 the case was listed for a July 2018 hearing. Unfortunately, the Regional Employment Judge postponed this hearing for lack of judicial

resource and the case was then listed in August 2018 to be heard in January 2019.

5. The claimant made a last minute application to postpone the previous hearing listed in January 2019 due to personal circumstances but give no reasons today.
6. The facts are disputed. I am told by the Respondent that there are texts to support the response but much of the evidence to be heard is oral as to the arrangements between the claimant and the respondent and whether this was work experience or a paid role.
7. I considered whether under Rule 47 Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 I should dismiss the claim, proceed with the hearing in the claimant's absence or whether it would be in accordance with the overriding objective to order a postponement under my general case management powers.
8. I considered that the claim has a value of £294.00 on the Claimant's case, is largely fact sensitive and involves evidence which is already 4 ½ years old. Any postponement is likely to be into 2020 in terms of judicial availability. I do not consider it in accordance with the overriding objective to postpone the hearing. This would not be proportionate and put the respondent to further expense. It would not avoid delay or save expense.
9. Given the issues and that the claimant does not appear to be actively pursuing her claim and the manner in which she is conducting these proceedings is unreasonable in light of the above, I do not consider it appropriate to proceed with the hearing in the claimant's absence. It is her claim.
10. I therefore exercise my discretion under Rule 37 and strike out the claim. This is because:
 - a. The manner in which the claimant has conducted the proceedings is unreasonable. She has failed to attend and not provided any explanation as to why. This is the second time. She knew the hearing was today and had requested an interpreter which was secured for her at public expense.
 - b. The claim is not being actively pursued for the reasons set out in 10(a) above.
 - c. I also have concerns about the delays caused by the claimant's failure to attend and that oral evidence is likely to be in excess of 4 ½ years old. This is also a factor.

01.10.19

Employment Judge King

JUDGMENT SENT TO THE PARTIES ON

...25.10.19.....

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FOR THE TRIBUNAL OFFICE