



EMPLOYMENT TRIBUNALS

Claimant:

Ms B Kokenyesi (1)
Ms A Manczai (2)

v

Respondent:

CH & Co. Catering Group
Limited

Heard at:

Reading

On: 26 September 2019

Before:

Employment Judge Hawksworth

Appearances

For the Claimant: No attendance or representation

For the Respondent: Mr G Graham (counsel)

JUDGMENT

The claimants' claims are dismissed pursuant to rule 47 of schedule 1 to the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013.

REASONS

1. The claimants presented a claim form to the tribunal on 24 November 2018, pursuing complaints of unfair dismissal, discrimination on grounds of sexual orientation, failure to comply with the right to be accompanied, breach of contract, unauthorised deduction from wages and unpaid holiday pay. The claimants were represented.
2. The claim and a related claim brought by the second claimant were listed together for a preliminary hearing at 10.00am on 26 September 2019, for the tribunal to identify the issues and make case management orders. The parties were notified of this listing by a notice of hearing dated 8 January 2019. Notice of the hearing was also sent to the parties in the related claim on 2 January 2019.
3. On 21 August 2018 the respondent wrote to the tribunal to make an application to strike out the claimants' claims. This was copied to the claimants' representative. On 5 and 12 September 2019 the respondent emailed the tribunal about the application and the forthcoming hearing, and copied in the claimants' representative.

4. The tribunal wrote to the parties in a letter dated 23 September 2019 to say that the notice of hearing did not include notice of the strike out application, and that the question of when the respondent's strike-out application should be considered would be a matter for the judge to determine at the preliminary hearing.
5. The claimants' representative notified the tribunal by telephone on 25 September 2019 that he would not be attending the preliminary hearing as he was no longer representing the claimants.
6. At the hearing on 26 September 2019 before me, there was no attendance or representation by the claimants. The clerk telephoned their former representative but he was unable to reach him and no voicemail could be left. The clerk telephoned the first claimant, his call was not answered but he left a voicemail for her. The second claimant had not provided any telephone number on her claim form. The clerk also checked with the tribunal's administrative centre at Watford; no message had been left by or on behalf of the claimants.
7. I waited until 10.15 before starting the hearing.
8. Mr Graham, who attended the preliminary hearing on behalf of the respondent, had no information as to why the claimants were not present at the hearing. His instructing solicitor had been in contact with their representative about the strike out application around 10 days previously, but was not aware before today that he was no longer acting for the claimants and had had no contact from the claimants themselves.
9. Mr Graham applied for the claimants' claims to be dismissed pursuant to rule 47 of Schedule 1 to the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013.
10. Rule 47, which is in a section of the rules headed 'Rules common to all kinds of hearing' provides:

"Non-Attendance

47. 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 parties' absence."
11. I considered all of the information which was available to me after the enquiries set out above had been made.
12. I noted that there had been two notices of hearing and a letter about the hearing sent by the tribunal to the parties, that the claimants' representative was no longer instructed, that there had been no contact at all from the claimants to explain why they had not attended the hearing

and that the clerk had been unable to contact the claimants on the morning of the hearing.

13. I decided that in the light of their non-attendance and the lack of any contact or explanation for the non-attendance, the claimants' claims should be dismissed.
14. The claimants' claims are therefore dismissed.
15. If there is a valid explanation for the claimants' non-attendance, it would be open to them to apply for reconsideration of this decision within 14 days of the date on which this judgment is sent to the parties.

Employment Judge Hawksworth

Date: 26 September 2019

Judgment and Reasons

Sent to the parties on:31/10/19.

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For the Tribunal Office

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