



# EMPLOYMENT TRIBUNALS

**Claimant**  
Mr. S. Faulkner

**Respondent**  
Metroline Ltd

v

**Heard at:** Watford  
**Before:** Employment Judge Heal

**On:** 18 November 2019

## Appearances

**For the Claimant:** not present or represented.  
**For the Respondent:** Mr. MacPhail, counsel.

## Preamble

1. I set out the chronology below as a matter of record. It does not amount to written reasons for my decision.
2. This hearing was listed by the tribunal at a preliminary hearing held on 17 December 2018 before Employment Judge Lewis. The claimant was present in person at that hearing.
3. A copy of the case management summary, containing the hearing date at paragraph 1 was sent to the parties on 10 January 2019.
4. The claimant engaged in subsequent correspondence with the respondent in which he was reminded of the deadlines in the case management orders and referred to the case management summary. He did not query the orders or ask about the hearing date. The respondent sent the claimant a copy of the bundle containing the case management summary (and therefore the hearing date) at the end of March 2018.
5. By email dated 8 November 2019 the claimant told the respondent, 'Please proceed with the tribunal using all the documents we have to date. I have what I need to proceed....'
6. By email dated 14 November 2019 the respondent sent to the claimant the respondent's witness statements, password protected, and a revised index to the bundle.
7. On Friday 15 November 2019, a member of the tribunal staff tried to call the claimant to confirm his attendance at today's hearing on Monday 18 November

2019. The tribunal had also called the respondent at 9.51 am to confirm attendance.

8. By email dated 15 November 2019 at 09:58 the claimant asked the tribunal to postpone the hearing on the grounds that 15 November 2019 was the first he had heard that a date had been set for the hearing on Monday 18 November 2019. He said that he was not ready and had work booked in for 18 November.
9. I refused that request to postpone because the claimant had been aware of the hearing date from the preliminary hearing. The claimant was told that the case remained listed.
10. By email dated 15 November at 15.47 the claimant wrote to the tribunal saying that he had been unaware of the hearing date until 'today' and could not attend. He said that he had not had time to prepare due to personal problems. He said that he had been caring for his elderly parents and had suffered a major bereavement in October 2019. He referred to the refusal of the postponement request and added, 'I'm sorry for any inconvenience and upset that I can't expose metroline for what they are.'
11. By further email dated 18 November 2019 at 08:58 the claimant wrote to the tribunal that he was sorry for what had happened and genuinely forgot the hearing date. He said that his life had been one of turmoil during the last year. He set out details. He added that he had worked hard in the initial preparation of his case and for many reasons was unable to attend on 18 November 2019.
12. I have not caused the tribunal staff to make further enquiries about the claimant's non-attendance today because it appears to me that he has been clear that he is not attending and has put forward reasons. I do not read his correspondence as either withdrawing his claim or applying for further postponement.
13. Mr MacPhail applied for the claim to be dismissed under rule 47 and in the alternative for it to be struck out under rule 37.
14. However, the claimant had not received notice of the application to strike out and Mr MacPhail has reserved his position on that.
15. I have not heard an application for costs by the respondent today, however Mr MacPhail has also reserved his position on that.

## **JUDGMENT**

Pursuant to rule 47 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

1. The claim is dismissed due to the non-appearance of the claimant.
2. The respondent has reserved its position on its application to strike out.
3. Costs reserved.

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Employment Judge Heal

Date: ...18 November 2019.....

Sent to the parties on: .....

.....  
For the Tribunal Office

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.