



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr B Shields

v

ID Medical Group Limited

Heard at: Cambridge

On: 9 December 2019

Before: Employment Judge Johnson

Appearances

For the Claimant: Did not attend and was not represented

For the Respondent: Did not attend and was not represented

JUDGMENT

Upon the Claimant not attending the hearing today, the Claimant's claim of breach of contract is dismissed.

REASONS

1. The Claimant originally presented a claim form on 17 May 2019 following a period of Early Conciliation from 31 January 2019 until 21 February 2019. He claimed unfair dismissal and also wrongful dismissal.
2. By a letter dated 4 July 2019, the Tribunal notified the parties that a claim had been accepted against the Respondent, but that the claim of unfair dismissal had been rejected due to the Claimant having insufficient service with the Respondent. The claim of breach of contract remained an issue.
3. The Respondent presented a response on 5 July 2019, resisting the claim and also seeking to argue that the Claimant's claim was out of time because it was presented to the Tribunal five days late.
4. The Tribunal was subject to consideration by Employment Judge Foxwell on 18 August 2019, when he determined that the issue of whether the Claimant's claim should be struck out should be determined at the Final Hearing as a preliminary issue. This was further confirmed in his Order dated 26 October 2019.

5. The last correspondence which the Tribunal received from the Claimant was in his email dated 16 September 2019, when he sought to argue that he had not received his notice pay and also argued that his claim was actually presented in time.
6. The Respondent's representative has continued to contact the Tribunal on several occasions in advance of the hearing and on 5 December 2019 sought to argue that the Claimant was failing to pursue his claim and that as it had no reasonable prospects of success, the claim should be struck out with the hearing today being vacated to avoid their attendance.
7. Employment Judge Brown had written to the Claimant on 27 November 2019, asking the Claimant to confirm whether or not he had been paid his notice pay. Alternatively, the Claimant was asked to explain how he believed the Respondent was in breach of contract. No response had been received by the Claimant prior to the hearing.
8. In accordance with Rule 47 of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013, Schedule 1,

“...if a party fails to attend or to be represented at a 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 party's absence.”
9. Before considering this case, I waited until 11:30am. Tribunal staff told me that no contact had been received from either party confirming that they would not attend, or alternatively whether they were facing any difficulties in travelling to the Tribunal. Taking into account this Rule and the overriding objective under Rule 2, I was satisfied that it would be appropriate to deal with this matter today based upon the papers available to me.
10. Having considered the Tribunal file, I noted that the Respondents had confirmed that the Claimant's date of termination of employment was 20 April 2019. Applying the period of Early Conciliation from 31 January 2019 until 21 February 2019, the Claimant should have presented his claim form by no later than 12 May 2019. The claim form was not presented until 17 May 2019. Taking this into account, it is clear that the claim was presented out of time in accordance with the provisions of the Employment Rights Act 1996. I have not received any information from the Claimant to persuade me that it was not reasonably practicable for the complaint to be presented before the end of the relevant period and accordingly, this claim is out of time.
11. However, even if the Claimant could have demonstrated that it was not reasonably practicable for him to have presented this claim in time, I find that the claim had no reasonable prospects of success as the Claimant

had not provided any evidence in support of his complaint of breach of contract and indeed, this matter had not been actively pursued.

12. The Claimant had failed to contact the Tribunal since 16 September 2019 and had not responded to the Order of Employment Judge Brown dated 27 November 2019. The Claimant has had a reasonable opportunity to make representations either in writing or at the hearing today. His failure to provide further information, or to attend means that I have no option but to dismiss his claim in accordance with Rule 47.

Employment Judge Johnson

Date: 17 December 2019

Sent to the parties on:24/12/2019.....

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For the Tribunal Office