



# EMPLOYMENT TRIBUNALS

**Claimant**

**Respondent**

**Mr R Olsen**

**v**

**Radix Dlt Limited**

**Heard at:** London Central

**On:**

13 December 2019

**Before:** Employment Judge E Burns

## Representation

**For the Claimant:** did not attend

**For the Respondent:** Ms G Leadbetter (counsel)

## JUDGMENT

The claim is dismissed under rule 47 following the claimant's failure to attend the preliminary hearing.

## REASONS

1. By a claim form (ET1) presented on 19 June 2019, following a period of early conciliation from 22 April 2019 to 21 May 2019, the claimant brought a claim of unfair dismissal.
2. The claimant was initially represented by a firm of solicitors, but they ceased to act for him on 31 October 2019, before the date the respondent's response (ET3) had to be submitted. When the response was accepted, it was sent to the claimant personally at the email address provided by his solicitors. This was on 12 November 2018.
3. The respondent's solicitors wrote to the tribunal on 14 November 2019 saying that the claimant was not engaging with them and requested an unless order be made. Copies of the relevant correspondence to the claimant were attached to the respondent's letter. The tribunal did not respond, but following a review of the case under rule 26, a preliminary hearing was listed to consider the single issue as to whether the claimant had sufficient service to bring a complaint of unfair dismissal. The Notice of

Hearing was sent to the claimant on 20 November 2019 and contained directions for disclosure and the exchange of witness statements.

4. On 29 November 2019, the claimant wrote to the tribunal saying:

*“My lawyer had abandoned me and I will not be able to meet the current schedules.*

*Under the circumstances, please may I have an extension.”*

The tribunal did not respond.

5. The respondent wrote to the tribunal on 2 December 2019 to update the tribunal that the claimant had failed to respond to attempts to contact him about disclosure for the preliminary hearing. The relevant correspondence with the claimant was attached.

6. This, together with additional correspondence contained in the bundle prepared by the respondent for today’s hearing, shows the respondent making numerous attempts to engage with the claimant. It includes a single email from the claimant (dated 18 November 2019) sent by the claimant acknowledging emails from the respondent’s solicitors and saying he would need an extension (page 66). This demonstrates that the email address being used by the respondent’s solicitors and the tribunal was correct and emails were reaching the claimant.

7. The respondent wrote to the tribunal again on 9 December 2019 requesting an unless order as the claimant had failed to engage with the preparatory steps for the preliminary hearing. This correspondence was not received sufficiently well in advance of the preliminary hearing for the tribunal to be able to respond before today’s hearing.

8. At today’s hearing, Ms Leadbetter for the respondent, made an application that the claimant’s claim be dismissed under rule 47 of the tribunal rules. Rule 47 states:

*“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 reason for the party’s absence.”*

9. She explained that the respondent believed, through information gained from a mutual contact, that the claimant may be attending a conference in Dubai. She said that, other than the email contained in the bundle at page 66 (referred to above) the respondent’s solicitors had not received any other communications from him. The respondent’s director, Mr Hughes had however been receiving infrequent, but regular, social media messages from him notwithstanding the ongoing litigation. She provided copies of these.

10. I requested that the tribunal's email in-box be double checked in case any correspondence had been missed from the claimant. The tribunal does not have a telephone number on record for him. Having confirmed that the only correspondence received was the email dated 29 November 2019 referred to above, I decided to exercise my discretion under rule 47 and dismiss the claim.
  
11. I am satisfied that the correspondence shows that there has been a pattern of non-engagement by the claimant. There is no reason to believe that the claimant has not received the Notice of Hearing or that he has been unable to contact the tribunal to request a postponement of the hearing if he needed one. I am satisfied that his non-attendance is voluntary and demonstrates he no longer wishes to pursue his claim.

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**Employment Judge E Burns**  
**13 December 2019**

Sent to the parties on:

....16/12/2019.....

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For the Tribunals Office