



EMPLOYMENT TRIBUNALS

Claimant: Mr D Rainsford

Respondent: DXCG Limited

HELD AT: Manchester

ON: 7 January 2020

BEFORE: Employment Judge Holmes

REPRESENTATION:

Claimant: Not in attendance or represented

Respondent: No response received

JUDGMENT AND UNLESS ORDER

The judgment of the Tribunal is that:

Unless by 28 January 2020 the claimant explains in writing to the Tribunal the reasons why he failed to attend or be represented at, or otherwise to communicate with the Tribunal in relation to the hearing of his claims listed for 7 January 2020 at 10.00 a.m.,

the claimant's claims will be dismissed pursuant to rule 47 of the 2013 Rules of Procedure.

REASONS

1. The Tribunal today was listed to hear the claimant's complaints of unlawful deductions from wages, and for notice pay and a redundancy payment. The respondent had not responded, and its non – attendance was not, therefore , unexpected.

2. The case was called on at 11.30 a.m., but the claimant had not attended by that time. Because of the claimant's unexplained absence, and without any obligation upon the Tribunal to do so, the Tribunal clerk telephoned the mobile number given by the claimant on his claim form, but to no avail.

3. In these circumstances the Tribunal has the power to dismiss the claimant's claims under Rule 47 of the Tribunals rules of procedure. This rule provides that , if a party does not attend or is represented at the hearing, provided that the Tribunal has first considered all the information which is available to it , after any enquiries that may be practicable about the reason for the party's absence, the Tribunal may dismiss the claim.

4. Having made enquiries at the time, and not having any explanation from the claimant (who lives in the North East) for his absence, the Employment Judge was not minded to dismiss the claimant's claims, without an opportunity for the claimant to explain his non – attendance at, or any communication with, the Tribunal.

5. The effect therefore, is that the claims will be struck out if the claimant does not comply with the terms of the order above. If he does, the Employment Judge will then consider, whether to dismiss the claims under rule 47. If the claims are not dismissed, the Tribunal may not need to hold a further hearing, and may be able to grant the claimant a rule 21 judgment, which would avoid the need for him to attend any further hearing.

6. In order to do so, however, the Tribunal would need full details of (preferably with supporting documents such as payslips) the claimant's gross and net pre – termination earnings, any contractual terms as to notice (statutory notice would be four weeks) , and details of any sums of wages that the claimant says are still owed to him, showing how the same are calculated, and to what periods of work they relate. The Tribunal will also need to know whether the claimant obtained any alternative work during the notice period, or received any state benefits, and details of the relevant sums involved.

Employment Judge Holmes

Date: 7 January 2020

JUDGMENT AND REASONS SENT TO THE PARTIES ON

8 January 2020

FOR THE TRIBUNAL OFFICE