



EMPLOYMENT TRIBUNALS

Claimant: Mr L Boyle
Respondent: Mountney Ltd

Heard at: Ashford

Before: EMPLOYMENT JUDGE CORRIGAN
Sitting Alone

Representation

Claimant: No attendance
Respondent: Mr J Gill, Consultant

PRELIMINARY HEARING

On: 22 November 2019

JUDGMENT

1. The claim is dismissed due to the Claimant's failure to attend.

REASONS

1. The Claimant did not attend, having emailed the Tribunal the day before saying that following the notice of the change of this hearing from a one day hearing to a two hour preliminary hearing (as per the original Case Management Order) he would not be attending. He said he had been forced into the decision to abandon his claim, but was taking advice about a complaint. The Tribunal then sought clarity as to whether this was intended to be a withdrawal but received no reply.
2. I decided not to treat this as an unequivocal withdrawal, given the reference to

feeling forced to abandon the claim. Nevertheless I decided it was appropriate to dismiss the claim due to non-attendance under rule 47 of the Employment Tribunals Rules of Procedure. The Claimant has not attended, without providing a good reason, having indicated an intention not to actively pursue his claim.

3. In any event, the purpose of today's hearing was to determine whether the claim was out of time. The employment terminated on 31 July 2018, giving a primary deadline of 30 October 2018. The Claimant did approach ACAS in that time, on 27 September 2018 and conciliation ended 27 October 2018. This gave a 30 day extension to the primary deadline, making the extended deadline 29 November 2018. The claim was submitted on 30 November 2018.
4. The Claimant had sent in a statement in respect of this issue dated 29 April 2019. He has not contested that the claim was a day late and has not given an explanation as to why it was not reasonably practicable to submit the day before on 29 November 2018.
5. He said he was unaware it was late but it appears from an attached email he had ongoing access to ACAS advice and could have therefore sought information about the deadline for bringing a claim. He explained that in early November he was deterred by a threat to withhold a reference but this did not prevent the claim being issued and there is no indication that the issue about the reference was the reason it was lodged on 30 November 2018 rather than 29 November 2018. The claim was therefore out of time and is outside the jurisdiction of the Tribunal in any event.

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Employment Judge Corrigan
22 November 2019