



EMPLOYMENT TRIBUNALS

Claimant: Mr M Ruckauskas
Respondent: Sainsburys
Heard at: Ashford Employment Tribunal
On: 11 December 2019
Before: Employment Judge Martin

JUDGMENT

1. Unless the Claimant sets out in writing why he says his claim of unfair dismissal should not be struck out and sends this to the Tribunal and to the Respondent no later than 4 pm 20 January 2020 his claim will stand dismissed as at the date of non-compliance.
2. If the Claimant does respond the Tribunal will consider on the papers whether his claim should be struck out on the basis that he has less than two years' service without the requirement for a separate hearing.

REASONS

1. The Claimant presented a claim for unfair dismissal on 5 May 2019. The Claimant's claim form stated his dates of employment were from 5 November 2018 to 18 March 2019. Pursuant to s108 Employment Right Act 1996 states that two years continuous service is required ending with the effective date of termination of employment.
2. The Claimant was asked to give reasons why his claim should not be struck out for lack of qualifying service by letter dated 5 December 2019 and requested an immediate response. A full merits hearing had been listed for 11 August 2019.
3. No reply was received. The Tribunal therefore informed the Respondent and the Claimant on 9 December 2019 that the hearing would go ahead but the Respondent was not required to attend pending information from the Claimant as to why his claim should not be struck out. The Tribunal left the case in the list to give the Claimant the opportunity to attend to explain why his claim should not be struck out.

4. The day before the hearing the Claimant sent an email to the Tribunal stating that "I see little point in attending the hearing. My reasons can be best verbalise. (sic) I request a postponement for 11/12/19. I can confirm I shall not be attending with good reason". No reason for requesting a postponement was given. The file was reviewed by me on the morning of the hearing and I instructed that the Claimant be telephoned to say that his request for a postponement was refused and if he wanted to attend he should attend the Tribunal no later than 12 noon failing which the Tribunal would deal with his claim in his absence. Alternatively, the Claimant could send in written submissions as to why his claim should not be struck out. This enabled the Claimant a final chance to explain why his claim should not be struck out. The Claimant was telephoned at about 10 am and said he would not be attending but would send in written submissions by 1 pm.
5. At 12.34 the Claimant sent an email. This says that his claim was accepted by the tribunal and then he was given too short a time to say why his claim should not be struck out and that he wants to take advice.
6. In consequence the following order is made.
 - a. Unless the Claimant sets out in writing why he says his claim of unfair dismissal should not be struck out and sends this to the Tribunal and to the Respondent no later than 4 pm 20 January 2020 his claim will stand dismissed as at the date of non-compliance.
 - b. If the Claimant does respond the Tribunal will consider on the papers whether his claim should be struck out on the basis that he has less than two years service without the requirement for a separate hearing.

Employment Judge Martin

Date 11 December 2019