



EMPLOYMENT TRIBUNALS

Claimant: Mr S Shaw

Respondent: Caerphilly Funeral Services Limited

Heard at: Cardiff **On:** 10 January 2020

Before: Employment Judge S Jenkins

Representation

Claimant: No attendance or representation

Respondent: Ms J Fisher

JUDGMENT having been sent to the parties on 10 January 2020 and written reasons having been requested by the Claimant in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

REASONS

1. The hearing of the Claimant's claim of unauthorised deductions from wages was scheduled to commence at 10.00am on 10 January 2020. At that time, the Claimant was not in attendance, and despite waiting until 10.40am, he was still not in attendance.
2. Rule 47 of the Employment Tribunals Rules of Procedure notes that, if party fails to attend or be represented at a hearing, the Tribunal may dismiss the claim or proceed with the hearing in his absence. The Rule also notes that, before making such a decision, the Tribunal shall consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence.
3. In that regard, I could see from the Tribunal file that, after having received the Response Form, sent to him on 23 December 2019, the Claimant had sent an email to the Tribunal on 6 January 2020 saying, "*Hi I'm not sure of what I'm supposed to do? Do I have to turn up to court?*". The Tribunal administration replied later that day saying, "*...although it is not mandatory to attend your hearing it is recommended you attend so that you can give*

evidence if required. Please bring with you 2 copies of any documents you wish to rely on”.

4. That led to the Claimant sending a further email on the evening of 6 January 2020. In that he said, “*Unfortunately I start my new job so I won’t be able to attend sorry. However I’m guessing all my evidence of what happened has been submitted*”.
5. In response to that, the Tribunal administration sent a further email to the Claimant on 8 January 2020 which said, “*While, as noted in the Tribunal’s email of 6 January 2020, it is not mandatory for a Claimant to attend a hearing, the Tribunal will only be able to give judgment based on the evidence it reads and hears and where evidence of witnesses can be tested under cross-examination. The comment in the earlier email that it is recommended that you attend to give evidence is therefore reiterated*”.
6. No further communication was received from the Claimant, and at no time did he make an application to postpone the hearing. In the circumstances therefore, I considered it appropriate to dismiss the claim in the absence of the Claimant. That was on the basis that, although the Claimant had asserted, in his claim form, that he had suffered an unauthorised deduction from his wages in relation to damage to one of the Respondent’s vehicles, he had provided no evidence to support his assertion, and the Respondent had, in its response, pointed to contractual terms which allowed for the deduction.

Employment Judge S Jenkins

30 January 2020
Date

REASONS SENT TO THE PARTIES ON 31 January 2020

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FOR THE TRIBUNAL OFFICE