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EMPLOYMENT TRIBUNALS (SCOTLAND)

**Case Number: 4107832/2019
and 4110393/2019 (Employer Contract Claim)**

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Held in Glasgow on 9 October 2019

Employment Judge R Gall

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Miss V Pikturnaite

**Claimant
Not Present and
Not Represented**

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FMIC Limited

**Respondent
Represented by:
Mr A Maxwell –
Solicitor**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Tribunal is as follows: –

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(1) The claim brought by the claimant is dismissed in terms of Rule 47 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013.

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(2) The claimant is ordered to pay to the respondents the sum of One Thousand, Three Hundred and Eighty Five Pounds (£1,385), comprising repayment of training costs amounting to £1,100 and losses incurred by

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the respondents due to the claimant failing to give notice of termination of employment to the respondents, those losses amounting to £285.

As stated at the Hearing, in terms of Rule 62 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013, written reasons will not be provided unless they are asked for by any party at the hearing itself or by written request presented by any party within 14 days of the sending of the written record of the decision. No request for written reasons was made at the hearing. The following sets out what was said at conclusion of the hearing. It is provided for convenience of parties.

REASONS

1. This case called for Hearing at Glasgow on 9 October 2019. At that point the respondents were present as was their solicitor, Mr Maxwell. There was no appearance and no representation for the claimant.
2. The claimant was at an earlier point in the proceedings represented by solicitors. Those solicitors had withdrawn from acting on her behalf. They intimated this to the Tribunal and to the respondents by email of 19 September 2019. In that email they confirmed the email address and telephone number for the claimant as well as her address. Those were all as originally supplied by the claimant. They also confirmed that they had advised the claimant of time limits then in place for submission of a response to the Tribunal to the Employer Contract Claim submitted by the respondents.
3. There has been no contact by the claimant with the Tribunal since that time. The Tribunal wrote to the claimant at the email address supplied on 24 September and 2 October. It also wrote to the claimant on 4 October at the email address supplied intimating that if no response was received a Judgment under Rule 21 might be issued. There was no reply from the claimant to any of these communications.

4. On the morning of the Hearing, there being no appearance by the claimant, the Clerk to the Tribunals contacted the telephone number provided by the claimant and confirmed on 19 September by her solicitors as being a telephone number. There was no reply to the call. The Hearing commenced
5 at approximately 10.10am. It concluded that approximate 10.50am. During that time there was no contact from the claimant with the Tribunal office and there remained no appearance by the claimant.

5. In the circumstances detailed, I concluded that it was appropriate to dismiss the claim in terms of Rule 47. I had regard to the claim form and response
10 and in particular to the absence of contact or appearance from the claimant, both at the Hearing and in the lead up to the Hearing.

6. I heard evidence from Fiona Clacher, Director of the respondents. The respondents lodged productions.

7. One of the productions lodged was the employment contract between the
15 claimant and respondents signed by the claimant on 6 October 2016. The claimant had commenced employment with the respondents in July 2015. She underwent a two-year training completing that in October 2017. This involved a period of apprenticeship. She became a hairdresser, completing apprenticeship in October 2017.

- 20 8. The terms of the contract, specifically at clause 19 state that if an employee leaves within 2 years of completion of training repayment of the training fees requires to be made by that employee. The training fees amounted to £1,100 on the basis of the respondents media cost of £10 per week towards training fees. The balance of training fees was met by Skills Development Scotland.

- 25 9. The claimant ceased to work for the respondents by leaving without notice on 2 October 2019. That is within the two-year period. Repayment of the training fees is therefore appropriate. The training fees of not been repaid by the

claimant. The claimant has ordered to make payment to the respondents of £1,100 by way of repayment of these training fees.

- 5 10. In terms of clause 18 of the contract of employment between the claimant and the respondents the claimant has required to give 4 weeks' notice of termination of her employment. She gave no notice. There were appointments in her diary for the four-week period during which she would have served notice. Many of those required to be cancelled. In some instances appointments were met by the necessary work being undertaken by a different hairdresser. That however resulted in that hairdresser 10 counselling a conflicting appointment. These appointments were honoured by the respondents due to events which were happening such as weddings.
- 15 11. The respondents lost income to the extent of £1,085 due to cancellation of these appointments. They did not however require to pay the claimant wages. Her wages were £200 per week. £800 is therefore been deducted by the respondents from the loss of income. The claimant is ordered to pay to the respondents £285 by way of compensation for breach of contract in not providing 4 weeks' notice of termination of employment.
- 20 12. The respondents made an application for expenses in terms of Rules 74 to 78. The claimant has the right to be held in opposition to that application if she wishes to oppose it. She also has the right to place before the Tribunal information with appropriate documentary confirmation detailing her income and capital, including the value of any house owned by her with any mortgage associated with it. This is as the Tribunal me in terms of Rule 84 have regard to the ability of a party to pay any award of expenses in determining whether 25 to make such an award and, if so, in what amount any such award is to be made.
13. The date set down for consideration of the application for expenses is 2 December 2019. The Clerk to the Tribunals is requested to send to parties notice of that Hearing, 2 hours being set down for the Hearing. If the claimant

wishes to oppose the application for expenses she should confirm that prior to the Hearing. If she intends to appear to make representations either in opposition to the application or as to the amount of any award, if made, she should prepare and intimate to the respondents and to the Tribunal at least 7 days prior to 2 December details of her income, outgoings and capital assets, supported by any documentation such as utilities bills, Council tax, rent or mortgage payments.

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Employment Judge: R Gall
Date of Judgment: 11 October 2019
Date sent to parties: 22 October 2019

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