



# EMPLOYMENT TRIBUNALS

## PUBLIC PRELIMINARY HEARING

**Claimant:** Aderonke Adeniji  
**Respondent:** LIngwell Croft Surgery  
**Heard at:** Leeds **On:** 6 March 2020

**Before:**  
Employment Judge JM Wade

**Representation**

**Claimant:** no attendance by 10.50am  
**Respondent:** Mr D Jones (counsel)

## JUDGMENT

The claimant's complaints are dismissed upon her failure to attend or be represented at today's hearing, pursuant to Rule 47.

## REASONS

1. The claimant, a GP, presented her claim on 4 January 2020 as a litigant in person and did not identify a representative on the Tribunal's record. On 25 February this hearing was converted to a public hearing following a Rule 26 review to determine whether the unfair dismissal should be struck out because the claimant did not have two years' service. I had also numbered her short particulars so that we could discuss them today, assuming a litigant in person. That review established that although there were four potential further discernible complaints (constructive wrongful dismissal, direct race and sex discrimination or harassment on those grounds), the insufficiency of details was such that it was unclear whether they were arguable, and there was a clear limitation issue. It was therefore likely this hearing would also consider the making of deposit orders on any remaining complaints.

2. At 10 am the claimant had not attended. I directed a call to her by our clerk, who made a note of her response: the claimant had thought the hearing was 2pm (the original preliminary hearing listing), but had received the second notice of hearing. She could get here by taxi in some 15 minutes. I directed the respondent's counsel be informed and we would delay the hearing to enable her to attend and to give her that opportunity.

3. There was then a call from a representative to the Tribunal, acknowledging he was not on record, had committed to represent the claimant at a hearing, and saying that he already had a morning hearing and could not therefore attend, and that the claimant had **not received the revised notice of hearing**. The clerk had indicated the Tribunal would "get back to" the representative. I directed a courtesy call in those circumstances to let

the firm know that they were not on record and the Tribunal could not discuss the case with them. I also directed a further call to the claimant's mobile phone number to let her know that we would proceed and could she attend. There was no reply to that call at 10.48.

4. The hearing commenced at 10.50. Mr Jones made an application pursuant to Rule 47. He made alternative submissions if I was minded to proceed with the hearing, (in relation to strike out and deposit), and he indicated that if I was minded to adjourn the hearing to another day, an application for wasted costs would follow.

5. The possible judicial decisions today are:

5.1. Consideration of adjournment of today's hearing to address the strike out/deposit applications, giving the claimant the opportunity to attend and make representations;

5.2. Proceeding with today's hearing and determining those applications in the claimant's absence;

5.3. Dismissal today simply in circumstances of non attendance, pursuant to Rule 47 (that is without determining any of the other applications).

6. The non attendance of a party puts other parties and the Tribunal to wasted costs and expense, and deprives other Tribunal users of those resources both judicial and administrative. Currently there is strain on those resources as a result of increased workload with no prospect of that reducing, and likely increase.

7. Options 1 is not prejudicial to the claimant, it allows her to advocate the merits on a future date and/or provide further particulars. However, it puts the respondent and the Tribunal to ongoing cost simply by complaints being undisposed, or delay in their determination, when they may otherwise have been struck out or subject to deposit orders today. Option 2 would involve further time today, which may well be wasted, and fundamentally unjust because the claimant would not have had an opportunity to hear what is said or participate. Option 3 wastes little time and cost but deprives the claimant of pursuing her claim, which is to her prejudice, especially in circumstances of Equality Act allegations. However, there is less prejudice where on the face of the particulars there are real difficulties with the complaints as indicated above.

8. The balance of prejudice today lies against the claimant. I exercise my discretion to dismiss pursuant to rule 47 today (Option 3). I include in my consideration that an "off the record" representative may have muddied communications and clouded what was an error by the claimant. Nevertheless, fairness to the respondent and other tribunal users requires a balance to be struck in the circumstances I describe. On this occasion the right balance lies in bringing these proceedings to an end for non attendance.

**Employment Judge JM Wade**

6 March 2020