



EMPLOYMENT TRIBUNALS

Claimant: Mr J Kembery

Respondent: Jake Attfield

JUDGMENT ON STRIKE OUT

The judgment of the Tribunal is that the claim is struck out under Rule 37(1)(c) and/or (d) on the ground that the Claimant has failed to comply with orders and has not actively pursued his claim.

REASONS

1. A Strike-Out Warning was sent to the Claimant on 20 November 2019 at the same time as a Postponement Order postponing the hearing fixed for 21 and 22 November 2019 because both sides agreed the case was not ready for hearing.
2. The Strike-Out Warning required the Claimant to provide reasons in writing or request a hearing where he could make representations as to why his claim should not be struck out.
3. By email of 20 November 2019, 22.24 the Claimant responded disputing that the case was not ready for hearing and indicating that he was ready to proceed.
4. The Claimant did not respond to the Strike-Out Warning. However, it appeared that there may have been some misunderstanding and so a further Strike Out Warning and Case Management Orders were issued on 21 January 2020 requiring the Claimant by 4pm, 24 January 2020 to:
 - a. Write to the Tribunal, copying in the Respondent, explaining why he failed to comply with the orders of 5 September 2019, thus

necessitating the adjournment of the hearing on 21 and 22 November 2019;

- b. Send his documents and witness statement(s) to the Respondent and confirm to the Tribunal that he has done so;
 - c. Set out the reasons why he contends that his claim does have reasonable prospects of success notwithstanding the contentions in the Respondent's response, in particular that Jake Attfield was not his employer; and,
 - d. State whether he wishes the question of strike-out to be considered at a hearing or is content for it to be considered on the papers.
5. The Claimant did not comply with those further Orders.
6. By email of 14 March 2020 the Claimant indicated that he understood the case was struck out already, but that in any event he is now working in the Middle east for the foreseeable future and that the people he was complaining about had all left the organisation so *"we'll never get to the truth"*.
7. This appears therefore to be a withdrawal of the claim by the Claimant in all but name.
8. In any event, I am satisfied that the Claimant has failed to comply with multiple Tribunal orders as set out above and has not actively pursued his claim which should therefore be struck out under Rule 37(1)(c) and/or (d).

Employment Judge Stout

19 March 2020

Sent to the parties on:

20/3/20.....

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For the Tribunal:

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