



# EMPLOYMENT TRIBUNALS

## Claimant

## Respondent

Ms J Murphy

v

Women's Therapy Centre

On: 30 June 2020

**Heard at:** Watford, by CVP

**Before:** Employment Judge Hyams

### Appearances:

**For the claimant:** Not present or represented

**For the respondent:** Ms C Smith, Chair of Trustees

## JUDGMENT

The claimant's claims are dismissed.

## REASONS

- 1 The claimant's claims (which were principally for unpaid wages, a redundancy payment, and unfair dismissal) were due to be heard on 30 June 2020. That hearing was, however, on 29 June 2020, as a result of the Covid-19 pandemic and the absence of a safe hearing room at Watford Employment Tribunals, converted to a video hearing by the use of the CVP software platform.
- 2 The claimant was originally represented by a solicitor. The hearing was listed on 26 January 2020, when a notice of the hearing of the claims on 30 June 2020 at 10:00am at Watford Employment Tribunals was given in a letter to the parties. Case management orders were set out in the same letter.
- 3 The respondent is a company limited by guarantee. On 1 June 2020, Ms Christine Smith, the respondent's Chair of Trustees, wrote to the tribunal, saying that despite "repeated requests" from her, "the Claimant's representative has not cooperated in the exchange of Statements of Evidence" and asking for the case to be put before a judge to decide whether to make an "Unless Order" or to strike out the case. Ms Smith copied that email to the claimant's solicitor.

- 4 On 15 June 2020, Ms Smith sent a further email to the tribunal, this time copying it to the claimant's email address and not that of the claimant's solicitor. In it, Ms Smith wrote this:

"With just 10 working days remaining before the date of the Hearing and despite repeated requests from me, I have still not received the Claimant's Statement of Evidence".

- 5 Ms Smith then wrote that she was seeking the striking out of the case under rule 37 of the Employment Tribunals Rules of Procedure 2013.
- 6 On Saturday 27 June 2020, the tribunal staff emailed the parties to confirm that the hearing of 30 June 2020 was going to take place at Watford, in person. On Sunday 28 June 2020, Ms Smith responded, referring to her earlier requests for the strike-out of the claim and asking that the matter be put before a judge immediately. Ms Smith did not copy that email to the claimant or the claimant's solicitor, but it was responded to by a member of the tribunal's staff at 11:34am on Monday 29 June 2020, by email. In the email, which was copied to the claimant's solicitor, it was said that the hearing had been converted to a "hearing by **video conference**" (original emphasis). It was said in that email that details of how the parties were to take part in the hearing would be emailed "shortly".
- 7 At 12:05pm, i.e. 31 minutes later, the claimant's solicitor sent an email in the following terms to the tribunal, copying it to Ms Smith and the claimant:

"Dear Sirs,

We refer to the above matter and write to inform the Tribunal that we are presently without instructions from the Claimant in relation to attendance at the hearing tomorrow and finalising witness evidence in advance.

In the circumstances, we can confirm that we are no longer acting for the Claimant and would ask that all future correspondence be sent to the Claimant direct (who is copied into this e-mail)."

- 8 Instructions for joining the hearing by CVP were then sent by the tribunal to both the claimant and Ms Smith by email at 14:36 on 29 June 2020.
- 9 I started the hearing at 10:00am on 30 June 2020 precisely. The claimant was not present. Ms Smith was. I was told that a bundle had been sent to the tribunal the day before. I had not received it. I therefore asked that it be sent to me then and there, which it was. I adjourned the hearing to read the papers and to give the claimant an opportunity to attend, on the assumption that she may be having difficulty doing so. I resumed the hearing at 10:50, but the claimant was still not present.
- 10 The response to the claim was that the claim was wholly misconceived: it was based on factual assertions which were firmly and hotly denied. It was the respondent's case that it had, to the knowledge of the claimant, in November 2018 resolved to cease

operating on 31 March 2019 and thereafter to wind itself down. The case of the respondent was that the claimant had been a volunteer until 31 January 2019, after which, by agreement, she had carried out a paid role for the respondent on a fixed-term basis until 31 March 2019. The documents put before me on 30 June 2020 by Ms Smith were consistent, and consistent only, with that response to the claim.

11 I waited until after 12 noon to see whether the claimant sought to attend the video hearing late. She did not do so. I asked the hearing clerk to see whether the claimant had attended the hearing venue (Watford) in person, and it was clear that the claimant had not attended the building in person. I asked and was told that there was no record of a telephone call from the claimant to the tribunal staff about the hearing, and no email received by the tribunal from the claimant about or in relation to the hearing.

12 In the circumstances, rule 47 of the Employment Tribunals Rules of Procedure 2013 applied. That provides:

“If a party fails to attend or to be represented at the hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it shall consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party’s absence.”

13 In the circumstances, in my judgment it was right to dismiss the claims under rule 47 of the Employment Tribunals Rules of Procedure 2013 because the claimant had failed (apparently without good reason) to attend or be represented at the hearing of 30 June 2020 and because it seemed clear to me that the claims were not being actively pursued.

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Employment Judge Hyams  
Date: 30 June 2020

JUDGMENT SENT TO THE PARTIES ON 24/07/2020

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Jon Marlowe  
FOR THE TRIBUNAL OFFICE