



## **EMPLOYMENT TRIBUNALS (SCOTLAND)**

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**Case No: 4102107/2020 (V)**

**Final hearing held by CVP on 5 October 2020**

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**Employment Judge R King**

**Mr Philip Hayter**

**Claimant  
Not present and  
not represented**

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**Asda Stores Limited**

**Respondent A  
Represented by:  
Miss Badham,  
Barrister**

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### **JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

The Judgment of the Tribunal is that the claim is dismissed.

### **REASONS**

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1. The case called for a final hearing by CVP on 5 October 2020. The respondent was in attendance with its witnesses and ready to proceed. The claimant was not in attendance and was not represented.

2. The Tribunal noted that -

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- The claimant's former representatives had withdrawn from acting for him on 25 September 2020 and that since then he had not made contact with the tribunal.

- The claimant had not made contact with the respondent's representatives since 25 September 2020.
- The claimant had failed to attend or be represented at the CVP test on 2 October 2020 despite having had joining details sent to him by e-mail in advance.
- Joining details for the CVP final hearing had been e-mailed to the claimant on 2 October 2020 and again at 9.30 a.m. on the morning of the hearing.
- The Tribunal clerk had tried without success to telephone the claimant on the landline and mobile numbers held for him on 2 October 2020 and on the morning of the hearing.
- The claimant had not contacted the Tribunal at any time explaining that he would not be in attendance.

3. In the circumstances Miss Badham made an application that the claim should be dismissed because of the claimant's non-attendance. The claimant had received prior notice of the final hearing but he had given no indication that he would not be in attendance and no reason for his absence. The tribunal had made all practicable enquiries as to the reason for the claimant's absence, but without success. The respondent was in attendance and was prepared to proceed with the hearing. It was entitled to have the claim against it determined and it would be in the interests of justice and consistent with the overriding objective to dismiss the claim.

4. No application for costs was made meantime.

5. Rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 provides that:

*" 47. Non-attendance*

*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 reason for the party's absence."*

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6. The Tribunal was satisfied that the claimant had received fair notice of the hearing and of the CVP joining details. It had made all practicable enquiries that were available to it and it was left with no reason for the claimant's absence.

5 7. As the respondent attended ready to proceed to a final hearing and there was no reason for the claimant's absence, the Tribunal concluded that it was in the interests of justice and consistent with the overriding objective to dismiss the claim on the ground of the claimant's non-attendance.

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15	<b>Date sent to parties:</b>	<b>Robert King</b>
	<b>Date of Judgment:</b>	<b>06 October 2020</b>
	<b>Date Sent to Parties:</b>	<b>06 October 2020</b>