



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr K Sivarajah

v Law Lane Solicitors

PRELIMINARY HEARING

Heard at: East London Hearing Centre (by Cloud Video Platform)

On: 23 November 2020

Before: Regional Employment Judge Taylor

Appearances

For the Claimant: Did not attend

For the Respondent: Mr H Felix, solicitor

JUDGMENT

The claimant's claims are struck out for failure to comply with the Tribunal's orders made on 27 August 2020 and

the claim is dismissed because the claimant failed to attend or be represented at the hearing.

REASONS

1. The claimant was employed by the respondent, a firm of solicitors, as a Paralegal and Costs Draftsperson from 2 January 2020 until 18 March 2020. The claimant presented two claims. Early conciliation started in respect of the first claim, number 3201284/20, on 22 March 2020 and ended on 6 April 2020. The claim form was presented on 6 May 2020. Early conciliation started for the second claim, number 3201743/20, on 30 April 2020 and ended on 5 May 2020. The claim form was presented on 2 July 2020.
2. The claims were consolidated by order of the Tribunal dated 15 September 2020.

3. A preliminary hearing (by telephone and in private) was listed on 27 August 2020 to determine what were the legal and factual issues in this case. That hearing had to be vacated because the claimant did not attend and it was not possible to make progress in his absence, for the reasons set out in that order by the judge who conducted the case. The claimant was ordered to provide further particulars of his claim by 21 September 2020. A further telephone preliminary hearing to discuss issues and case management was listed for two hours on today's date.
4. The claimant did not comply with the order of the tribunal which led to the respondent, on 7 October 2020, making a strike out application, pursuant to rules 37(a) to (d) of the Employment Tribunals Rules of Procedure 2013.
5. Rule 37 states:
 - (1) At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds—
 - (a) that it is scandalous or vexatious or has no reasonable prospect of success;
 - (b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;
 - (c) for non-compliance with any of these Rules or with an order of the Tribunal;
 - (d) that it has not been actively pursued;
 - (2) A claim or response may not be struck out unless the party in question has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.
6. If a party does not attend a hearing rule 47 applies:

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.
7. Following the respondent's strike out application, the parties were notified that the preliminary hearing on 23 November 2020 was converted to a preliminary hearing (open to the public), to be conducted via cloud video platform to consider striking out the claimant's claims due to non-compliance with the Employment Tribunal's orders. The parties were informed that if not struck out case management orders would be made.

8. Accordingly, a new notice of hearing was sent to the parties on 22 October 2020.
9. The hearing was scheduled to begin at 10:00am. At 10.00am, the respondent attended, represented by Mr Felix, solicitor, who also provided a bundle of documents for the hearing. However, the claimant had not attended the hearing by that time. A tribunal clerk emailed and telephoned the claimant in order to find out why he had not attended and, if necessary, to provide him with any help that might be necessary.
10. The hearing was delayed until 10.35am, by which time the claimant had still not attended the hearing and had not responded to the tribunal's attempts to contact him. It follows that this was the second tribunal hearing the claimant had not attended.
11. Having considered the documents on the tribunal's file and the submissions made by the respondent, the Tribunal was satisfied that the claim should be struck out because the claimant had failed to comply with the tribunal's order to provide further particulars of his claim and dismissed because had failed to attend the hearing.
12. In arriving at its decision; the Tribunal took into consideration that claimant had been given a reasonable opportunity to comply with the Tribunal's order to provide further information and had had sufficient opportunity to oppose the respondent's application. The Tribunal also took into consideration that the claimant had failed to communicate with the Tribunal or the respondent in respect of his absence at this hearing.
13. The Judgment of the Tribunal is that the claimant's claims are struck out for failure to comply with the Tribunal's orders made on 27 August 2020 and the claim is dismissed because the claimant failed to attend or be represented at the hearing.

Regional Employment Judge Taylor
Date: 23 November 2020