



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr K Zaman  
**Respondent:** Catherine Chan  
**Heard at:** East London Hearing Centre (by Cloud Video Platform)  
**On:** 16<sup>th</sup> December 2020  
**Before:** Employment Judge McLaren

## Representation

**Claimant:** Did not attend  
**Respondent:** Ms J Wyper, RBS and Nat West mentor

# JUDGMENT

**The claim is struck out in its entirety, the claim for unfair dismissal because the claimant does not have sufficient qualifying service and the remainder of the claims both because they have not been actively pursued and for failure to comply with tribunal orders.**

# REASONS

1. The claimant had been employed as a lettings consultant by the respondent, an estate agency which deals with residential sales and lettings. It is a small company with one director and three employees.
2. The claimant's employment ended on 31 January 2020. He started on 17 July 2019. He brought claims against the director of the company as a named individual for unfair dismissal, wrongful dismissal, and discrimination on the grounds of age, race, religion, and belief. He also made a claim for other payments. The tribunal has no jurisdiction to hear any claim for unfair dismissal

as the claimant does not have sufficient length of service. It was possible, however, for him to pursue claims of discrimination.

3. The tribunal had listed the matter for an initial preliminary hearing to be heard on 27 August. Prior to that, on 10 August, the claimant was also ordered to send a remedy statement to arrive by 24 August.

4. The claimant did not send any remedy statement and did not attend on 27 August. He did not contact the respondent or the employment tribunal. He remains in breach of this order.

5. Following the preliminary hearing an order was made requiring the claimant to explain his absence and to provide additional details. On 21 September the claimant responded to this order in part. He provided some additional details of his claims for direct discrimination on grounds of race and for harassment on grounds of religion and belief, but no additional details in relation to any claim for age discrimination, nor as to the other payments that he considered he was owed. This information has still not been provided.

6. He explained his failure to attend by letting the tribunal know that he had Covid symptoms and had been unwell. He indicated that he would serve a schedule of loss and a completed agenda for a further preliminary hearing, but this has not happened. No other details were provided.

7. A further preliminary hearing was listed for 30 November, but the claimant did not attend. He telephoned during the hearing to say that he was unwell but did not follow any procedure to apply for a postponement. An order was made that he provides the employment tribunal and the respondent with medical evidence to support his failure to attend the 30 November hearing and to explain why he was able to call into the tribunal but not attend the CVP. The claimant has not responded.

8. The matter was listed for a further preliminary hearing today, 16 December. The claimant did not attend. The respondent, at my request, telephoned the claimant and the claimant in my hearing answered, had a discussion with the respondent's representative and asked that a message be passed to me letting me know that he is unwell and is awaiting a Covid test. I was unable to ask the clerk to make this call because a fire alarm meant the building was evacuated and so instead the call was made by the respondent, but while we all remained in the cvp room

9. This is the third preliminary hearing that the claimant has failed to attend. He has provided the same reason for his non-attendance, namely that he is unwell with Covid, although on this occasion he advised that he is waiting for a test for that condition. He has not, however, provided the requested medical evidence to support his reason for absence. He has not complied with the Tribunal's order to provide details by 24 August, nor with all parts of the order made after the hearing in August, nor with the order made at the hearing on 30<sup>th</sup> November.

10. Following the hearing the tribunal received an email that was said to be from the claimant's brother stating, "Please accept his sincere apology due to his illness his not in the best position to make any contact at this stage". This email stated that the claimant had

COVID-19, that the results would arrive that day or the next and would be sent on.

11. No results have been received. This email is at odds with the fact the claimant answered the call, so was able to make contact, and was able to talk to the respondent and request another adjournment. It is not sufficient to tell the tribunal of illness without complying with the orders for information made.

12. On each occasion the claimant has failed to provide the requested information and so, despite this email, I have struck out the claim for unfair dismissal because the claimant does not have sufficient qualifying service. I also conclude that the claimant has failed to meet tribunal orders as set out above and is not actively pursuing the rest of case. On that basis I have struck out the remainder of the claimant's case in its entirety.

**Employment Judge McLaren**

**Date: 21 December 2020**