



EMPLOYMENT TRIBUNALS (SCOTLAND)

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Case Number: 4101972/2020 (V)

Preliminary Hearing held remotely at Glasgow on 21 October 2020

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Employment Judge D Hoey

Ms K Hunter

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Claimant
Represented by:
Not present

Take a Break Cleaning Limited

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Respondent
Represented by:
Ms Reynolds
(Director)

JUDGMENT

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The claims are dismissed in terms of Rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, the claimant having failed to attend the hearing, reasonable enquiries having been made as to the reason for her non-attendance.

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Reasons

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1. This was a full hearing that had been fixed to determine the claimant's claim of unfair dismissal, her ET1 having been presented on 27 March 2020. ACAS early conciliation commenced on 17 March 2020 with a certificate being issued on 27 March 2020.

2. At a preliminary hearing on 3 August 2020 the parties had identified the issues and agreed that a CVP hearing should be fixed to determine the issues. Case management orders were also agreed. The parties were to work together to produce a chronology and statement of agreed facts, a joint bundle was to be submitted and the parties had agreed to produce written witness statements.
3. The respondent had provided their statement and the papers they wished to rely upon but there had been no correspondence from the claimant. The claimant had not implemented the orders that were issued following the case management preliminary hearing.
4. A test for the CVP hearing had been fixed which the respondent attended. The claimant did not attend that call, despite calls being made to the claimant.
5. At the hearing today, the respondent was in attendance together with their witness. The claimant was not in attendance. Efforts were made again to contact the claimant but without success.
6. The respondent's agent was able to participate in the hearing, seen and be seen, and communicate effectively. The Tribunal was satisfied that the arrangements for that hearing had been conducted in accordance with the Practice Direction dated 11 June 2020, and ascertained that the appropriate notice as to that hearing was on the cause list. It was satisfied that the hearing had been conducted in a fair and appropriate manner.
7. Having considered all the information available I concluded that it was in the interests of justice for the claims to be dismissed in terms of Rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013. Time had been spent seeking to accommodate the Claimant to allow the matter to proceed but this had been to no avail.

8. I took account of the significant time and cost incurred to the respondent in defending the proceedings to date. I also took account of the fact that the parties had agreed the case management orders at the case management preliminary hearing and that although the respondent had complied with them,
5 and taken the time and cost to do so, the claimant had done nothing following that hearing.
9. I also took account of the papers that had been submitted, which included the claim form. Although it appeared that there may have been issues in
10 connection with the procedure undertaken prior to dismissal, the claimant appeared to have refused to engage with the respondent to explain the reasons for her actions, that had led to the respondent's concerns.
10. While the respondent may not have followed the ACAS Code of Practice with
15 regard to disciplinary matters, the respondent did seek some explanation from the claimant which was ultimately not forthcoming nor in some respects credible. It is important that a fair process and the ACAS Code is considered in relation to disciplinary issues. Unfair dismissal law emphasises fairness to both parties. A fair procedure is important to ensure employees know exactly
20 the concerns an employer has. The Code sets this out, with more information in the relevant ACAS Guidance document.
11. In reaching my decision I took account of the overriding objective within the Employment Tribunals (Constitution and Rules of Procedure) Regulations
25 2013. I considered that in all the circumstances of this case it was fair and just that the claim be dismissed, having considered the information available to me and balanced the interests of both parties.
12. If the Claimant believes there was a good reason for her non-attendance and
30 can explain why she had failed to contact the Tribunal to explain the position in good time (and why the case management orders had not been carried out by her), or if she believes there are good reasons why her claim should still

proceed, it is open to her to seek a reconsideration of this Judgment in terms of Rule 70 of the above rules bearing in mind the applicable time limits and tests set out in those Rules. It is important to bear in mind the time limits within those rules and the procedure that should be followed if any such application is made.

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13. The claim is therefore dismissed.

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Employment Judge: David Hoey
Date of Judgment: 21 October 2020
Entered in register: 17 November 2020
and copied to parties

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