

RM



EMPLOYMENT TRIBUNALS

Claimant: Mr B Justice
Respondent: JD Sports Fashion Plc
Heard at: East London Hearing Centre
On: 20 November 2019
Before: Regional Employment Judge Taylor

Representation

Claimant: Did not attend
Respondent: Ms A Niaz-Dickson, Counsel

JUDGMENT

The judgment of the Tribunal is that the claim is dismissed upon the claimant having failed to attend at the time and place fixed for hearing.

REASONS

1. This matter was came before the tribunal to consider whether the claim had been presented out of time and whether the tribunal had jurisdiction to consider it.
2. The claimant did not attend the tribunal at 10.00am today, which was the time and place fixed for hearing. At 10.35am enquiries were made by the tribunal office to ascertain the reasons for the claimant's absence. A file note was placed on the tribunal file recording that the claimant had told the clerk that he was expecting a representative to attend the hearing and that his representative had told him that he was not required to attend. Further enquiries were made and it is recorded here that the tribunal office had not received a notice of acting from any person purporting to be representing the claimant. No representative purporting to be representing the claimant had contacted the tribunal at all. It follows that no one informed the tribunal of their intention to attend and nobody attended the tribunal hearing on the claimant's behalf by the time the hearing began.
3. The background to this hearing is that a claim form was received on 8 July 2019 claiming unfair dismissal. The claimant's early conciliation certificate recorded that ACAS

was notified of the complaint on 21 June 2019 and the certificate was issued on 27 June 2019.

4. A notice of hearing was sent to the parties on 5 August 2019 to notify them that the final hearing would take place on 20 November 2019.

5. By its response, the respondent submitted that the claimant had presented his claim out of time: the claimant was dismissed on 7 March 2019 with immediate effect and would need to have commenced ACAS early conciliation by 6 June 2019 in order to protect his limitation position. Accordingly, the tribunal did not have jurisdiction to consider his complaint.

6. On the application of the respondent the final hearing was converted to a preliminary hearing the purpose of the hearing been to decide whether the claim has been brought in time and whether it should be permitted to proceed.

7. The respondent's representatives attended the hearing today prepared to cross examine the claimant on why he considered that it was not reasonably practicable for him to have presented a claim on time.

8. Rule 47 **Employment Tribunals Rules of Procedure 2013** says as follows:

"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 parties' absence."

9. The claimant failed to attend the hearing and he failed to be represented at the hearing. Given that this was a hearing listed to decide whether the claim, which it had been presented out of time could proceed, the tribunal considered there were insufficient reasons not to exercise the discretion to dismiss this claim.

10. Having considered all of the information available, including the results of the tribunal's enquiries, the claimant's claim was dismissed.

Regional Employment Judge Taylor
Dated: 20 November 2019