



EMPLOYMENT TRIBUNALS

Claimant: Mr Ian McDonald

Respondent: Alara Services Group Ltd

JUDGMENT

The Claim is dismissed under rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

REASONS

1. The hearing of this Claim was scheduled to take place at 2 pm on 19 July 2021, originally at Ashford Tribunal. The Notice of a Claim including the hearing date and details was sent to the parties by email letter dated 3 November 2020. There has since been correspondence between the parties which the Claimant responded to on 2 December 2020. There has been no further correspondence from either party since that date. By email letter dated 24 June 2021, the Employment Tribunal wrote to the parties notifying them that the hearing would take place by way of video link using the Cloud Video Platform (CVP). By a further email dated 16 July 2021, the parties were sent the joining details for the CVP hearing.
2. By 2.05 pm today neither party had joined the CVP hearing. I instructed my clerk to telephone them. She spoke to the Claimant who stated that he was unaware of today's hearing. She advised him to send an email explaining the position because the hearing was due to take place. He stated that he could not access his email account for financial reasons. She advised him to write to the Tribunal. He stated that he did not have the address. She offered to provide him with the address, but he said that he did not have time because he was busy. My clerk also attempted to speak to the Respondent by telephone. The number provided by the Claimant on his Claim Form is a switchboard number and my clerk was only able to leave a voicemail message. She attempted to telephone the Respondent on the number provided in emails received from the Personnel & Compliance Manager, but this was unobtainable. By 2.20 pm neither party had joined the CVP hearing, and no response was received from either.
3. Under rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013:

"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."

4. Having considered the information available to me after making practicable enquiries, I was concerned by the Claimant's failure to attend, and the explanation given. Whilst he may not have been aware that the hearing was taking place by way of CVP, which was only notified quite recently, he had certainly looked at his emails up until at least early December 2020 and by that date the notice of hearing had already been sent out. If he had been unaware that the hearing was taking place by way of CVP, then this did not explain why he did not attend the Employment Tribunal in person as per the notice of hearing which was originally intended to take place at the Tribunal's office in Ashford or contact the Tribunal in advance to explain why he was not able to attend. Further, if he was unable to access his email, he does not appear to have contacted the Tribunal asking for correspondence to be by post. I was also concerned as to his lack of willingness to even take the trouble to write in explaining his position and that from what he said he was clearly busy with something else.
5. Whilst the Respondent has also not attended and the Tribunal was not able to contact them, it is the Claimant's Claim and the onus is upon him to attend in order to give evidence as to why his claim should succeed.
6. Indeed, it appears from the Tribunal's file that the Claimant has not complied with any of the case management orders which were set out within the notice of claim/hearing letter. This resulted in correspondence from the Respondent and a letter from the Tribunal dated 29 December 2020 reminding the Claimant to comply with the case management orders and directing the Respondent to continue to comply and to alert the Tribunal if the Claimant's failure to comply continued. That letter contained a warning that failure to comply with case management orders can lead to a claim being struck out. The letter ended by advising the parties that the hearing had been increased from one hour to three hours and that all other details remain as per the notice of hearing issued on 3 November 2020.
7. I also note that the Respondent provided a Response to the Claimant's Claim attaching a bundle of documents in support containing 35 items. By contrast, the Claimant, other than presenting his Claim, indicated on 2 December 2020 that he would provide a counter statement against the Respondent's "unfounded and ludicrous allegations... which will be forwarded to the court in due course." But there is no record on the Tribunal's file that the Claimant sent anything further.
8. In the circumstances I dismiss his claim.

Employment Judge Tsamados
Date 19 July 2021