



## EMPLOYMENT TRIBUNALS

Claimant

Respondent

Ms Latoya Imoukhede

V

North London Care Services Ltd

### HEARING by Cloud Video Platform

Heard at: Watford

On: 6 August 2021

Before: Employment Judge Bedeau

#### Appearances:

For the Claimant: Din not attend, nor represented

For the Respondents: Mr C Johnson, Tribunal Advocate

### JUDGMENT

All claims against the respondent are dismissed under rule 47 Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

### REASONS

1. In a claim form presented to the tribunal on 6 January 2020, the claimant made claims of race discrimination, unfair dismissal, and accrued unpaid holiday. She stated that she had been wrongly accused of an act of gross misconduct notwithstanding that her conduct had been the subject of a police investigation and she was not prosecuted. She worked for the respondent as a Support Worker from 1 March 2009 to 10 September 2019, when she was dismissed for gross misconduct. No particulars were given in support of her race discrimination and accrued unpaid holiday claims.

2. In the response presented to the tribunal on 20 April 2020, it is averred that the claimant was the subject of a police investigation, in that she was alleged to have engaged in making malicious and harassing communications to a fellow employee. The police resolved the matter by way of Community Resolution, however, the respondent invoked its disciplinary procedure and charged the claimant with making malicious and harassing calls to another employee. She failed to engage in the disciplinary process which led to her summary dismissal for gross misconduct. She did not appeal. She initially lodged a grievance, the outcome of which was that it was not upheld. She appealed but that too was not upheld.
3. On 17 October 2020, Regional Employment Judge Foxwell, informed the parties that the claimant's race discrimination claim had not been accepted as she had not served her further information in respect of it, as ordered by Employment Judge Manley, by 27 July 2020.
4. Notice of hearing was sent to the parties on 28 February 2021. The tribunal listed the case for a final hearing today's date and issued the following case management orders: a schedule of loss from the claimant by 29 March 2021; mutual exchange of copy documents by 12 April 2021; an agreed bundle of documents by 26 April 2021; and the mutual exchange of witness statements on 10 May 2021.
5. On 29 July 2021, the tribunal informed the parties that the hearing would be a hybrid hearing comprising of in-person and Cloud Video Platform.
6. In an email dated 3 August 2021, the claimant's representatives, Pillai and Jones Ltd, informed the tribunal and the respondent's representatives, that they have decided to come off the record as acting for the claimant because they have not heard from her "despite numerous attempts to reach out to her".
7. Before me the claimant did not attend, nor did she inform the tribunal and the parties that she was either unable or unwilling to attend. I asked the clerk and a tribunal correspondence clerk, to enquire into whether there has been recent correspondence in this case, but nothing was found from the claimant. The only document in the file, from her, is her claim form.
8. The respondent's witnesses attended and produced a bundle of documents. They were represented by Mr Craig Johnson, Tribunal Advocate, from Citation. Although it was his intention to apply for a strike out judgment, he was content for the claims to be dismissed under rule 47, Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 based on the claimant's non-attendance.

## The law

9. Rule 47 states:

“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.”

**Conclusion**

- 10. I was satisfied that the claimant failed to engage in these proceedings. She had not complied with the orders of the tribunal and failed to give instructions to her representatives resulting in them having to come off the record on 3 August 2021. Apart from the claim form there is nothing of any assistance from her. Even during respondent’s internal disciplinary proceedings, she failed to engage with that process resulting in her dismissal.
- 11. Having considered all the information before me, I have come to the conclusion that all claims against the respondent in these proceedings should be dismissed.
- 12. Although not urged upon me by Mr Johnson, this case has all the makings of someone who has consistently failed to prosecute her case to a hearing. In other words, I am satisfied that she has failed to actively pursue her case and, in the alternative, I would strike out her claims under rule 37(1)(d).

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**Employment Judge Bedeau**

6 August 2021

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Sent to the parties on:

27/8/2021

For the Tribunal:

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