



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss K Hall

**First Respondent:** Lumina Investments Limited

**Second Respondent:** Mr M Tudgay

**Heard at:** Cardiff via CVP **On:** 7 June 2021

**Before:** Employment Judge R Havard  
Ms L Gibson  
Ms K Smith

## Appearances

For the Claimant: No appearance;

For the First Respondent: Mr Jaswal;

For the Second Respondent: In person

## JUDGMENT

It is the judgment of the Tribunal that the Claimant's claims are dismissed pursuant to rule 47 of the 2013 Rules of Procedure.

## REASONS

1. The Tribunal convened to conduct a final hearing in relation to the Claimant's claims of sexual harassment and victimisation.
2. The hearing was listed for three days on 7, 8 and 9 June 2021. Those dates had been included in the order made at the preliminary hearing that took place by telephone on 11 January 2021 at which Mr Luke Jones of Newport CAB appeared for the Claimant.
3. The order and directions were sent to the Claimant by email on 13 January 2021. That, and all subsequent, emails were sent to the address provided by the Claimant in her Complaint Form. There was no indication that those emails had not been delivered.

4. On 24 January 2021, the notice of hearing was sent to the parties, including the Claimant, informing the Claimant and Respondents of the dates of hearing.
5. Further correspondence took place to include arrangements for judicial mediation. On 3 February 2021, the Tribunal wrote to the Respondents, the Claimant and Mr Jones with regard to the Respondent's preparedness to engage with mediation. The order made on 11 January 2021, which included the dates of the final hearing, was attached to that email.
6. On 17 February 2021, the Tribunal sent to the Claimant and Respondents the notice of a telephone preliminary hearing to take place on 8 March 2021 to discuss mediation. There was no appearance by the Claimant at that hearing.
7. The last email correspondence received by the Tribunal from Mr Jones on behalf of the Claimant was on 12 April 2021 in relation to exchange of witness statements although it was noted by the Tribunal that, whilst it had received the witness statements of the Respondent, no witness statement had been received from the Claimant.
8. In the email from Mr Jones to the Respondents, he indicates that there was a need, *"to agree a time to exchange witness statements today, as per the court orders"* which indicates that the terms of the case management order were known to him. Direction 24 of the order of 11 January 2021 required witness statements to be exchanged by 4 p.m. on 12 April 2021.
9. Whilst it would appear that the case management order following the preliminary hearing on 11 January 2021 and the notice of hearing were sent to the Claimant directly, there was no confirmation that the Newport CAB were officially on the record as acting for the Claimant. Furthermore, the Tribunal had properly notified the Claimant of the order containing the directions and hearing dates and it was clearly a matter for the Claimant to notify Mr Jones of what had been sent to her by the Tribunal. The case management order containing the dates of hearing was attached to the email to the parties and Mr Jones of 3 February 2021. Finally, as stated at paragraph 8 above, Mr Jones was aware of the terms of the order of 11 January 2021.
10. On 7 June 2021, there was no appearance by the Claimant or anyone on her behalf. The Claimant had not provided a contact number but the Tribunal sent an email to her, asking her to contact the Tribunal. However, there was no reply.
11. Enquiries were made of Newport CAB. The Tribunal was informed that Mr Jones was on annual leave until Thursday of this week and no one else in the office was familiar with the matter and was not able to assist.
12. Before reaching its decision, the Tribunal asked Mr Jaswal, who represented the First Respondent, and the Second Respondent if they had any observations they wished to make.
13. Mr Jaswal stated that the First Respondent had tried to engage with the Claimant from the outset. The Claimant had lodged a grievance. When Mr Jaswal arranged

for a grievance hearing to take place, the Claimant failed to attend. The Claimant had been unresponsive thereafter, despite Mr Jaswal inviting her to return to work after furlough. Indeed, Mr Jaswal stated that the Claimant was still on the hotel's payroll and they had done everything to encourage her back to work.

14. The Second Respondent supported what had been said by Mr Jaswal. He also said that he was self-employed and taken time to prepare for this hearing.
15. Both Mr Jaswal and the Second Respondent considered that the claims should be dismissed.
16. The Tribunal considered that it had taken all practicable steps to enquire about the Claimant's non-attendance.
17. Having conducted such enquiries, the Tribunal concluded that the Claimant had been notified of the hearing dates but had failed to attend.
18. In the circumstances, and taking account of the history of this case, the Tribunal decided that the Claimant's claims must be dismissed.
19. The Claimant will of course be entitled, if she so wishes, to seek a reconsideration of this Judgment. If she does make any such application, for which there are time limits which will be apparent from the documentation accompanying this Judgment, she must, as part of that application, explain why she has failed to attend, or be represented or in any other way participate in this hearing listed for three days commencing today. The Claimant will also have to explain why she has failed to respond to the Tribunal's email of today.

Employment Judge R Havard

7 June 2021

Sent to the parties on 9 June 2021

.....  
For the Tribunal Office Mr N Roche