



EMPLOYMENT TRIBUNALS

Claimant: Mr F Johnson
Respondent: Impact Security Solutions

Heard at: London Central (remotely by CVP)
On: 3 September 2021

Before: Employment Judge Heath

Representation

Claimant: Did not attend
Respondent: Miss K Lea (Respondent's HR Manager)

JUDGMENT

The claimant's claim is dismissed pursuant to Rule 47 of the tribunal's Rules of Procedure on the claimant's failure to attend the hearing.

COMMENTARY

1. This matter was listed to be heard as a Full Merits Hearing with a time estimate of two days on 8 July 2021 before Employment Judge Nicklin. On that occasion the claimant did not attend the hearing and the respondent was represented then, as now, by Miss Lea. The tribunal clerk on 8 July 2021 telephoned the claimant and was told that the claimant had recently been discharged from hospital and was unwell. He wanted the hearing adjourned as he was too ill to attend the hearing. No documentary evidence of the claimant's medical state was provided.
2. Employment Judge Nicklin postponed the hearing due to the claimant's non-attendance and also because the case was not ready to proceed in any event. He made various case management orders, including requiring the claimant to send a document setting out the losses he claims, directing exchange of documents, witness statements and the preparation of a bundle. In particular, he directed that if "*a party cannot attend the hearing next time, for any reason, they MUST apply for a postponement in advance of the hearing giving full reasons and providing evidence...The parties are warned that if they fail to attend the next hearing without good reason (supported by evidence), the hearing may proceed in their absence. In the claimant's case, this could mean that the case is dismissed pursuant to Rule 47 of the tribunal's Rules of Procedure*". Employment Judge Nicklin's Record of a

Preliminary Hearing, setting out these directions, was sent to the parties on 8 July 2021

3. On 2 September 2021 the parties were emailed instructions on how to access the hearing in the CVP room. At 9:59 AM the tribunal clerk informed me that the respondent alone was in attendance. I asked the tribunal clerk to attempt to make contact with the claimant. The tribunal clerk telephoned the claimant and had a brief conversation with him during which he told her that he was in hospital sick and unable to attend the hearing. He said that he was aware of the hearing as the respondent had called him last week to let him know about it. He had not sent anything to the tribunal as he said he did not have an email address to send anything to.
4. At 10:21 AM I accessed the CVP room and spoke with Miss Lea who was in attendance with a witness for the respondent, Mr Khan. I shared with Miss Lea the information given to me by the tribunal clerk. Miss Lea told me that the claimant had not complied with any of the directions made by Employment Judge Nicklin and had provided no documents to the respondent. She said that she had telephoned the claimant the previous week and explained to him that she had not received any documents from him and that the hearing was the following Friday. The claimant did not say that he was unwell or that he was going into hospital. Miss Lea suggested to him that he contact the tribunal if he had any difficulties.
5. Employment Judge Nicklin's Record of a Preliminary Hearing was clear that further postponements were unlikely without very good reason and supported by evidence. Equally clear were the possible consequences of failure to attend without good reason supported by evidence. The tribunal clerk made enquiries and spoke to the claimant. He gave his being in hospital as the reason for failure to attend. This is followed his non-attendance on the last occasion and his complete failure to comply with directions for the preparation of this matter for a Full Merits Hearing. No application was made in advance to postpone the hearing, and no evidence has been supplied to support the claimant's contention. Stepping back and looking at the progress of this case as a whole, it has all the appearance of the claimant simply disengaging from the process. Miss Lea asked me to dismiss the claim, and in all the circumstances I consider that this is the fair and just thing to do.

Employment Judge **Heath**

Date 3 September 2021 _____

JUDGMENT SENT TO THE PARTIES ON

03/09/2021.

FOR THE TRIBUNAL OFFICE

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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Case No: 2207240/2020

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