



EMPLOYMENT TRIBUNALS (SCOTLAND)

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Case No: 4100515/2020

Held in Glasgow on 20 September 2021

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Employment Judge S MacLean

Mr J Bernard

**Claimant
No appearance and
Not represented**

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Falkirk Car Carriers Limited

**Respondent
Represented by:
Ms Y Guild,
Director**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

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The judgment of the Employment Tribunal is that the claimant's claim is dismissed under rule 47 of the Rules contained in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 for failure to attend the final hearing.

REASONS

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1. This case was listed for a final hearing in person on 20 and 21 September 2021. The respondent was represented by Ms Guild, a Director. There was no appearance by or for the claimant.
2. At my request the clerk telephoned the claimant to ascertain his whereabouts. The claimant said that he had not received any correspondence from the

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Tribunal or the respondent and did not know about the final hearing. He said that the correspondence may have gone into his spam mail.

3. On being advised of the claimant's position I spoke to Ms Guild. She explained that she had sent a copy of the productions by registered post to the claimant's new address and the delivery had been signed for. She had also emailed the Tribunal and the claimant on 16 September 2021 regarding this and the claimant's failure to provide any documentation upon which he relied.
4. I then considered the information available to me. This case had a preliminary hearing for case management on 12 May 2020. Orders were issued and the parties were asked to write to the Tribunal advising of availability and if they were able and willing to conduct the final hearing by cloud video platform (CVP). A reminder was sent on 24 October 2020.
5. The case was listed for a remote final hearing by CVP on 8 and 9 April 2021. The final hearing was postponed on 6 April 2021 as the claimant advised that he did not have facilities to conduct a remote hearing.
6. A telephone conference call took place on 8 April 2021 to discuss arrangements for an in person final hearing. The claimant advised of a change of address, which was recorded on the note and this judgment. He requested that as he frequently worked away from home where possible he wished to receive correspondence from the Tribunal and the respondent at the email address detailed in his claim form. He also asked for as much notice as possible as "he will require to arrange flights to attend".
7. On 29 June 2021 the Tribunal sent an email to the claimant (sent at 14:59) and to the respondent (sent at 15:02) attaching:
 - a. A notice of a 30 minute telephone conference call on 10 September 2021 to discuss the arrangements for an in person hearing.
 - b. A notice of a final hearing in person on 20 and 21 September 2021 at 10am at the Glasgow Tribunal Centre.
 - c. Judicial Guidance.

8. The claimant was telephoned on 10 September 2021. He informed the clerk that he could not remain on the telephone conference call as he had an appointment at Edinburgh Sheriff Court. On being informed of this Employment Judge Gall directed the clerk to email both parties that day
5 advising of the arrangements for the in person hearing on 20 September 2021.
9. On 16 September 2021 the clerk sent an email to the claimant at 10:42, Subject: Tribunal Hearing 20 September 2021. The claimant was asked to call or email the office to discuss how the hearing will run and arrangements
10 for any witnesses he may be bringing. There was no response.
10. I checked the email address of all recent communication and was satisfied that it was the same email address to which the Tribunal had been corresponding with the claimant since he presented the claim form. The claimant had also spoken to the clerk on 10 September 2021 about the
15 telephone call to discuss the in person arrangements for this final hearing and the respondent had sent productions to his new address for this hearing.
11. This was now the second occasion that the claimant was not available to proceed at the final hearing. On both occasions the respondent was ready and able to proceed.
- 20 12. I was satisfied from the information before me that the claimant requested that the Tribunal and the respondent correspond with him by email which had been done. I considered that the claimant knew about the final hearing.
13. Even if he had not seen the emails which I found surprising given that this was his preferred means of communication he was aware from the
25 preliminary hearing on 8 April 2021 that the case was to be relisted. From the telephone conversation with the clerk on 10 September 2021 the claimant knew that he was to participate in a telephone call to discuss the social distancing arrangements for the final hearing on 20 September 2021.
14. I concluded that the claimant knew or at the very least ought to have known
30 about the final hearing today and had had no intention of attending. In these

circumstances I decided that the claimant's claim should be dismissed under rule 47 of the Rules contained in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 for failure to attend the final hearing.

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Employment Judge: Shona MacLean

Date of Judgment: 20 September 2021

Entered in register: 23 September 2021

10 and copied to parties