

RM



EMPLOYMENT TRIBUNALS

Claimant: Mr Naiem Butt

Respondent: Door to Door Courier Services Ltd

Heard at: East London Hearing Centre (by Cloud Video Platform)

On: 15 October 2021

Before: Employment Judge Barrett

Representation

Claimant: Did not attend and was not represented

Respondent: Did not attend and was not represented

JUDGMENT

The judgment of the Tribunal is that: -

1. The Claimant's claim for unfair dismissal and other payments is struck out.

REASONS

This has been a remote hearing, which has not been objected to by the parties. The form of remote hearing was by telephone. A face-to-face hearing was not held, because it was not practicable, and all issues could be determined in a remote hearing.

1. On 7 May 2021, the Claimant presented a claim for unfair dismissal and 'other payments'. It was explained in the body of the claim form that the 'other payments' were the money the Claimant lost because he received his payslips late and was therefore unable to apply for a Covid-19 isolation payment from the Government.

2. I note that the right to itemised pay statements provided at section 8 of the Employment Rights Act 1996 does not give rise to a right to claim consequential losses in case of breach.
3. The Claimant's date of commencement of employment was entered into the incorrect box on the ET1, but it was apparent on review of the form that the Claimant's length of service was said to date from November 2019 to January 2021.
4. The Tribunal sent the Claimant a letter dated 21 May 2021 explaining that he did not appear to have the necessary 2 years' service to be eligible to bring a claim for unfair dismissal. He was invited to write to the Tribunal giving reasons why his unfair dismissal claim should not be struck out. The Claimant did not respond to this letter.
5. On 8 October 2021 the Tribunal wrote to the Respondent stating that no ET3 response form had been received and to the Claimant ordering him to produce documentation to support his claim for 'other payments'. Neither party replied.
6. At the hearing on 15 October 2021 neither party attended.
7. In the circumstances, I conclude it would be in accordance with the overriding objective to strike out the entirety of the Claimant's claim under rule 37(1)(d) of the Employment Tribunal Rules of Procedure because the claim has not been actively pursued; the Claimant having failed to respond to correspondence, produce documents, or attend the hearing.
8. Alternatively, I would have ordered strike out under rule 37(1)(a) because the pleaded claims have no reasonable prospect of success:
 - 8.1. The Claimant lacks 2 years' qualifying service necessary to bring a claim for unfair dismissal;
 - 8.2. A financial loss caused by the late provision of payslips is not recoverable in the Employment Tribunal.

Employment Judge Barrett

22 October 2021