



# EMPLOYMENT TRIBUNALS

**Claimant**  
**Mr M McGrath**

**v**

**Respondent**  
**Clearway Support Services Limited**

## JUDGMENT

On the Respondent's application, the Claimant's claim is struck out under Rule 37(1)(c) for non-compliance with the Orders of the Tribunal.

## REASONS

1. By ET1 lodged on 17 December 2020 the Claimant, who had worked for the Respondent for seven months until his resignation on 25 September 2020, brought claims of race discrimination, wrongful dismissal, holiday pay and failure to pay wages. The Tribunal wrote to the Claimant at the address given on the ET1, acknowledging receipt of the claim, on 24 May 2021. The Respondent lodged a response on 17 June 2021. It was not possible to discern the full details of the claim, since in answer to the question at box 8.2 asking for the background including the date(s) when the events complained about happened, the Claimant had written just six lines with no dates or names of those about whose conduct he was complaining.
2. By letter of 1 June 2021, a Preliminary Hearing (Case Management) (PHCM) was listed for 2 August 2021, to be conducted remotely by Teams. A Teams invitation was accordingly sent out on 29 July to both parties. Mr Peel appeared for the Respondent. The Claimant did not attend. Mr Peel said he had drawn up an agenda and a draft list of issues but the latter required the further particulars of the claim to be clarified before it could be finalised. The Claimant had not commented on either document or communicated with either Mr Peel or the Tribunal in advance of the PHCM. It appeared that the Claimant was not actively pursuing his claim.
3. Accordingly, a Strike Out Warning letter was sent to the Claimant on 6 August 2021, with a Case Management Summary and Orders giving him until 16 August to provide the necessary details of his claim and also to explain his non-attendance on 2 August. The Claimant did not reply.
4. On 18 August the Respondent wrote requesting Strike Out in accordance with the warning letter and orders. It appears that this prompted the Claimant to write in on 20 August to say that the Tribunal's emails had been

going into spam, although he added that Mr Peel had been quite helpful and giving him guidance. This therefore did not explain why he had not replied to Mr Peel's emails nor why he had failed to attend the PHCM. Nor did the Claimant respond with the particulars he had been ordered to provide.

5. On 23 August 2021, the Tribunal extended the time for compliance with the Orders until 6 September. The Claimant emailed back the same day (without copying in Mr Peel) saying simply "Extension I am out of the country until 08/09/21 [sic] And cannot provide the information required at such short notice". On 25 August he repeated this as follows, on this occasion copying in Mr Peel: "I was m out the country inti the 08/09/21 I have previously advised. I am not at fault here my emails to londoncentrsl were ignored and I have supplied the proof Guving me until the 06/09/22 is not acceptable Please can you request more time [sic]".
6. Although a search of the inbox was made and save for one message on 6 July 2021, no other emails from the Claimant could be located. Further, the Claimant ignored very clear instructions to send emails to the main London Central inbox and instead replied directly to individuals on more than one occasion. If he has sent emails to the wrong address, it may explain why they cannot be found. The Tribunal has not received copies of such emails from him subsequently.
7. Initially the Claimant was informed that the deadline for submission remained 4pm on 6 September 2021. On that date, at 12.20, the Claimant replied (again without using the London Central address) saying that the deadline was "unacceptable". He said that he would be returning to the UK in the early hours of 7 September from Cyprus and offered to supply holiday details. He argued that his claim had been made in August (though it had not) but, also incorrectly, that he had not received any confirmation letters, and that he was seeking an extension of time of only five days. He did not comply with the orders by the 4 pm deadline.
8. Since the Claimant had made an application prior to the expiry of the deadline, time was extended, exceptionally, to 4 pm on 14 September and a further email was sent to him confirming this. In addition to being required to comply with the earlier orders, the Claimant was also ordered to produce evidence of when he had left the UK and his return flight, and a copy of the emails that he had sent to the Tribunal prior to 18 August. He was warned that if he did not comply with the revised deadline, his claim would be struck out.
9. The Claimant did not send the Tribunal the further details of his claim, or an explanation of his absence from the hearing on 2 August by the revised deadline or at all. Further, despite having offered (and been ordered) to send in details of his holiday, including as part of the order details of when he left the UK and confirmation of his return flight, all the Claimant sent in was a Hotel Summary Voucher which gave booking details of a holiday in Cyprus in the name of the Claimant and three others arriving on 27 August and departing on 6 September 2021.
10. It would therefore appear that on 23 August when the Claimant said he was

“out of the country until 08/09” this was not correct; he had not yet left the UK and would be returning at least a day earlier than he said. He has still not (as of 16 November) complied with the orders made at the hearing on 2 August or indeed those made on subsequent occasions, whether in time or at all.

11. On 10 November 2021 the Respondent applied for the claim to be struck out under Rule 37(1)(c) (Schedule 1, Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013). The Claimant has not submitted any response to that application.
12. In the circumstances, the Tribunal concludes that the claim should be struck out on the basis of Rule 39(1)(c), namely that the Claimant has failed to comply with the Tribunal’s Orders as set out above.

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Employment Judge Norris  
Date: 16 November 2021  
JUDGMENT SENT TO THE PARTIES ON

17/11/2021.

FOR THE TRIBUNAL OFFICE