



EMPLOYMENT TRIBUNALS

Claimant: Mr C Peter

Respondents: LHR Airports Ltd

JUDGMENT

The claim for unfair dismissal is struck out.

REASONS

1. The Claimant having failed to attend the final hearing to determine his claim on 8th November 2021, the Tribunal made enquiries as to his whereabouts attempting to get hold of the claimant by email and telephone to no avail.
2. The Tribunal having commenced on time took a short adjournment to try to locate the claimant without success. The claimant had been sent a notice of the hearing by video on 1st November 2021 for the four day listing.
3. The hearing had originally been scheduled for 11-14 July 2022 due to the delays with the pandemic. The parties were asked to provide their dates to avoid by letter dated 3rd January 2021 and there is no response on file from the claimant to the request. The respondent replied. On 30th March 2021 the parties were written to and notified that an earlier date had been secured of 8th November 2021 to take place in person at Reading. The claimant failed to attend the hearing centre so it was not that he was in the wrong place at the right time and date.
4. The Tribunal gave directions at the preliminary hearing on 6th July 2020 for the preparation of the case for final hearing. The claimant attended in person so was aware of the directions. This order was sent to the parties on 5th August 2020. The claimant had not prepared a witness statement and sent this to the respondent in accordance with the order not even for himself as a witness. The order was that this was done by 5th October 2020.
5. This was the second case management order as the earlier preliminary hearing on 19th November 2019 gave directions for case preparation including a schedule of loss and witness statements. The hearing was listed for July 2020 but this was vacated due to the pandemic and the presidential guidance at the time and converted the second preliminary hearing referred to above. The case would not have been ready for trial given the claimant's failure to comply with the orders.

6. The respondent's representative informed the tribunal that ACAS had been unable to make contact with the claimant. The claimant had not engaged in preparation of the trial bundle with the respondent. The respondent nevertheless prepared the bundle and the claimant did not respond to the respondent to confirm whether he wanted a hard copy as well as the soft copy sent by email at the end of October 2021. The claimant had not prepared a schedule of loss although this was not referred to in the second preliminary hearing.
7. Given all the above it is clear that the claimant is not actively pursuing his claim. The respondent made an application to have the claims struck out on multiple grounds under rule 37 Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013, that it was not being actively pursued, that the claims had no reasonable prospects of success and that the claimant had not complied with the orders of the Tribunal.
8. Given that the claimant has failed to attend the four day listing of his case, not notified the Tribunal of any last minute issues and not prepared for the hearing or engaged with the respondent the inevitable conclusion is that the case is not being actively pursued. We have been unable to contact the claimant today.
9. As such it is not necessary for us to determine whether the claim has any reasonable prospects of success to strike out the claim as this would involve considering the merits of it as opposed to the claimant's failure to comply with orders and turn up today. The respondent's application is not granted on the grounds of the claim having no reasonable prospect but is granted for under Rule 37(1)(d) that the case is not having been actively pursued and secondly under Rule 37(1)(c) having failed to comply with the Orders of the Tribunal of 6th July 2020 and 19th November 2019. Had the respondent not made the application the Tribunal would have struck out the claim of its own initiative in any event for these reasons.
10. The claimant is not actively pursuing his claim and in accordance with Rule 37(1)(d) Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013, this is grounds for a strike out. The claimant has not complied with the Tribunal orders dated 6th July 2020 and in accordance with Rule 37 (1)(c) Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013, this is grounds for a strike out. The claimant's claims are therefore struck out.

01/12/21

Employment Judge King

JUDGMENT SENT TO THE PARTIES ON

23/12/2021

N Gotecha

FOR THE TRIBUNAL OFFICE