



EMPLOYMENT TRIBUNALS

Claimant: Mr McQuillan

Respondent: Mr Green

Heard at:

On: 05 January 2022

Before: Employment Judge Dyal sitting with Mrs Rodney & Dr Azam

Representation:

Claimant: did not attend and was not represented

Respondent: did not attend and was not represented

JUDGMENT

1. The claims are dismissed.

REASONS

1. This matter came before the tribunal today for a final hearing. Unfortunately neither party attended. The first decision the tribunal therefore had to make was whether it should proceed or whether it should adjourn.
2. The tribunal took the view that it would be in accordance with the overriding objective to proceed. All reasonable efforts had been made to notify the parties of the hearing, which has been scheduled for a long time, no request for an adjournment has been made and there is no explanation for non- attendance.
3. Some relevant background is as follows:
 - 3.1. This hearing was listed on 10 June 2021. The notice of hearing was sent that day by email to the Claimant's then solicitors and to Mr Green.

- 3.2. On 1 December 2021, the Legal Officer wrote to the parties asking for confirmation that the case was ready to proceed on 5 January 2022. The correspondence was sent by email to the Claimant's solicitors and to Mr Green.
 - 3.3. The only response to that correspondence was from the Claimant's solicitors on 9 December 2021 stating that they no longer represented the Claimant. They gave contact details for the Claimant, namely an email address, a postal address and a mobile telephone number.
 - 3.4. On 16 December 2021, the Legal Officer emailed his correspondence of 1 December 2021 to the Claimant directly at the email address given by the Claimant's former solicitors. He copied in Mr Green. There was no response to that correspondence.
 - 3.5. On 23 December 2021, the Legal Officer wrote to both parties directly by email and by post, confirming that the hearing would go ahead and giving some final directions. He gave instructions as to what to do in the event of a party considering that an in-person hearing was not appropriate. There was no response to that correspondence.
 - 3.6. Upon the parties not attending the hearing today by 10.00 am, the tribunal's clerk attempted to telephone the Claimant using the only number on file for him (that provided by his former solicitors.) The number was not recognised. The clerk also emailed both parties asking for an urgent response. None was received.
4. The issues in the case have narrowed over time. The only claims left before the tribunal are of:
 - 4.1. harassment related to sex / of a sexual nature contrary to s.26 & 40 Equality Act 2010;
 - 4.2. detriment by reason of making a protected disclosure contrary to s.47B Employment Rights Act 1996.
 5. In relation to the harassment claim the Claimant has the burden of proving, among other things, facts from which the tribunal could conclude, in the absence of any other explanation, that the Respondent contravened s.26 read with s.40 Equality Act 2010.
 6. In relation to the public interest disclosure detriment claim the Claimant has the burden of proving that he made a protected disclosure within the meaning of s.43A Employment Rights Act 1996.
 7. There is no evidence before us nor in the case file. The Claimant inevitably fails to prove that which he must in order for either claim to succeed. The claims must therefore be dismissed.

Employment Judge Dyal

Date 05.01.2022