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EMPLOYMENT TRIBUNALS (SCOTLAND)

Case Number: 4121864/2018

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Held in Glasgow on 15 July 2019

Employment Judge I Atack

15 **Mrs C O'Brien**

**Claimant
Not Present and
Not Represented**

20 **Greater Glasgow Health**

**Respondent
Represented by:-
Mr Christopher Reeves -
Solicitor and
Mr David James -
Trainee Solicitor**

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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 of unfair dismissal is dismissed.

REASONS

1. This Preliminary Hearing had been fixed to consider the question of time bar.
35 It was the respondent's position that the claim had been presented out of time and should be dismissed.

E.T. Z4 (WR)

2. The claimant had not appeared at 10am on 15 July 2019 when this case was due to be heard. I was satisfied that she had been sent a Notice of the Preliminary Hearing, on 22 May 2019, advising it would take place at 10am on Monday 15 July 2019.
- 5 3. I instructed the Clerk to try to contact the claimant to ascertain the reason for her non-appearance. The Clerk endeavoured to phone the claimant but was unsuccessful as there was no reply. A message was left advising the claimant of the attempts to contact her.
4. As the claimant had not appeared by 10.30am I had the case called.
- 10 5. Mr James requested that the case be dismissed under Rule 47 due to the non-attendance of the claimant. He advised that a previous Preliminary Hearing in March had been postponed at the request of the claimant. There was no explanation for her non-attendance today. In the circumstances he submitted that the claim should be dismissed.

15 **Decision**

6. Rule 47 of the first Schedule to the Employment Tribunals (Constitution and Rules of Procedure) Regulation 2013 provides that if a party fails to attend or be represented at the Hearing, the Tribunal may dismiss the claim or proceed with the Hearing in the absence of that party. Before doing so, the Tribunal
20 is required to consider any information which is available to it, after enquiries that may be practicable, about the reason for the party's absence.
7. It was Mr James' submission that the Tribunal should dismiss the claim. I did not consider it would be possible to proceed with the Hearing in the absence of the claimant since on the face of it the claim is out of time and it is for the
25 claimant to show that it was not reasonably practicable for her to present the claim within the statutory time limit. It is for the claimant to produce evidence about that.
8. I took into account that the claimant had been informed of the date assigned for the Preliminary Hearing and that the Clerk had endeavoured to contact her

by phone to ascertain the reason for her absence but had been unsuccessful. There was no explanation given to the Employment Tribunal for the claimant's absence. In the circumstances I decided to dismiss the claim in terms of Rule 47.

- 5 9. If the claimant had a good reason for failing to attend the Hearing on 15 July 2019 she is of course entitled to apply for a Reconsideration within **14 days** of the date upon which this Judgment is sent to her.

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Employment Judge: I Atack
Date of Judgment: 18 July 2019
Entered in register: 22 July 2019
and copied to parties

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