



EMPLOYMENT TRIBUNALS

Claimant: Mr D Sarsby

Respondent: The Commissioners for Her Majesty's Revenue and Customs

Heard at: Newcastle Civil Family Courts and Tribunal Centre

On: 03 February 2022

Before: Employment Judge Sweeney

Appearances:

Claimant: No appearance
Respondent: Tim Wilkinson, counsel

JUDGMENT

1. The complaints of unfair dismissal and wrongful dismissal are dismissed pursuant to rule 47 of the Employment Tribunal Rules of Procedure 2013.

REASONS

1. These proceedings were listed for a two-day hearing in person on 03 and 04 February 2022. A previous final hearing by video had been aborted on 21 October 2022 due to some technical difficulties experienced by the Claimant.
2. The Claimant did not attend the Tribunal at 09.45am as required by the Notice of Hearing dated 05 November 2021. Having reviewed the file I noted that the email address on the ET1 was an outlook address and that the Notice of Hearing had been sent to a hotmail address.
3. I instructed the clerk to attempt to contact the Claimant. Two voice messages were left and two emails were sent at two different email addresses which the Claimant used, namely his outlook address and his Hotmail address.

4. There was no response to either voice message or email. I explained to counsel for the Respondent that the first reference on the Tribunal file to a Hotmail address was from Mr England, formerly of the government legal department. I could see that on 13 October 2021, the Claimant had clearly received an email from Mr England at his Hotmail address and he responded to Mr England at the Hotmail address. Mr Wilkinson showed an email exchange between Mr England and the Claimant on 16 April 2021, whereby the Claimant expressed surprise that Mr England had been experiencing difficulties with his Hotmail account as he was receiving emails to that address as normal.
5. I waited until 11.30am but there was no contact from the Claimant.
6. Mr Wilkinson invited me to exercise my discretion under rule 47 ET Rules and dismiss the proceedings. Rule 47 provides:

'If a party fails to attend or to 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, it shall consider any information which is available to it, after any enquires that may be practicable, about the reasons for the party's absence.'
7. The Tribunal had attempted, unsuccessfully, to contact the Claimant. I reviewed the history of correspondence between the tribunal and the parties and email exchanges between the parties. I was satisfied that the Claimant had used the Hotmail account and the outlook account. This was the second hearing attend by the Respondent, whose witnesses had to travel to attend today's hearing. Although not obliged to do so under rule 47, I also considered the Grounds of Complaint and the Response and the legal principles applicable to a conduct unfair dismissal and a wrongful dismissal complaint.
8. In all the circumstances, I considered it appropriate to exercise my discretion to dismiss the claims pursuant to rule 47.

Employment Judge Sweeney

3 February 2022