



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4100044/2018 Held in Glasgow on 9 and 10 July 2018

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Employment Judge: Shona MacLean
Members: Mr HP Boyd
Mrs AJ Middleton

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Mr John Harkins

Claimant

No appearance and not represented

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G1 Group plc

Respondent
Represented by:
Mr D Hay
Advocate

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The claims are dismissed under Rule 47 of the Rules contained in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

REASONS

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1. This claim is combined with case numbers 4100043/2018; 4100045/2018; 4100046/2018; 4100047/2018; 4100048/2018 and 4100049/2018. The claims were presented to the Tribunal's office by Mr Briggs of Thompsons Solicitors who was instructed by and represented all the claimants.

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2. On 21 April 2018 a notice of hearing was sent to Mr Briggs confirming that the hearing would take place from 9 July to 17 July 2018 inclusive. Mr Briggs advised the claimants of this.

E.T. Z4 (WR)

3. After the hearing started on 9 July 2018 there was a short adjournment to allow Mr Briggs to take instructions. When the hearing reconvened around 11am Mr Briggs advised that he had been unable to obtain instructions from the claimant from whom he had last heard on 24 May 2018. Mr Briggs said that since then he had been attempting to contact the claimant by telephone and email but had been unsuccessful. Mr Briggs also advised that some of the other claimants had attempted to contact the claimant but they too had been unsuccessful. In the circumstances Mr Briggs said that he was left with no alternative but to withdraw from acting for the claimant and the claimant had been advised of this.
4. As the other claimants and the respondent were ready to proceed the hearing was adjourned until 2pm to allow the Tribunal's clerk to make enquiries. The clerk endeavoured to speak to the claimant by telephone but the mobile telephone was switched off. On the Tribunal's instruction the clerk sent an email to the claimant advising of the developments and asking if he was still pursuing his claims and would be attending the hearing the following morning. The claimant was asked to reply by 2pm. The email also stated that if the claimant failed to respond within the timescales consideration would be given by the Tribunal to striking out his claims on the grounds that they were not being actively pursued.
5. The hearing reconvened at 2pm. The clerk confirmed that the claimant was uncontactable by telephone and there had been no response to the email. As the remaining parties were ready to start the hearing the Tribunal decided to proceed in the claimant's absence on the basis that if the claimant attended the hearing the following morning Mr Briggs was willing to share his notes recording the evidence with the claimant.
6. On 10 July 2018 at 10am there was no appearance by or for the claimant at the hearing. He had not contacted the Tribunal's office or Mr Briggs. Mr Hay said that he proposed to make an application to dismiss the claimant's claim under Rule 47 of the Rules contained in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

Alternatively, he applied for the claimant's claims to be struck out in terms of Rule 37(1)(d). The Tribunal decided to delay consideration of the application until lunchtime to afford the claimant more time to attend or make contact.

5 7. The hearing continued until lunchtime. The claimant had not contacted the Tribunal's office or Mr Briggs. Over lunch the Tribunal considered the respondent's application under Rule 47. The Tribunal had hoped that by this stage the claimant would have been in touch. The Tribunal had no explanation for the claimant's failure to attend the hearing.

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8. The Tribunal was satisfied that the claimant had been informed of the dates of hearing and had failed to contact Mr Briggs despite repeated requests. The Tribunal considered that the claimant knew that he would need to attend the hearing at some point to give evidence. Mr Briggs had informed the claimant that he was withdrawing from acting on his behalf. The clerk had contacted the claimant by email and telephone. The Tribunal had heard evidence from Mrs Swan, the dismissing officer about the other claimants' claims. She had not given evidence about the claimant's dismissal as he was not present or represented. Mrs Swan was no longer an employee of the respondent. The Tribunal did not consider that it was appropriate to hear Mrs Swan's evidence about the claimant's dismissal in his absence as it placed the Tribunal and Mr Briggs in a difficult position. If the hearing was adjourned it would need to be relisted and Mrs Swan would be involved in returning to continue her evidence at some unknown date. It would also inconvenience the other claimants who had made arrangements to attend the hearing and give evidence.

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9. Having considered the information available, having made enquiries of Mr Briggs and the other claimants and having endeavoured unsuccessfully to contact the claimant directly about the reasons for his absence the Tribunal decided to dismiss the claimant's claims under Rule 47 of the Rules contained in Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

10. When the hearing reconvened at 2.15pm the parties were informed of the Tribunal's decision and its reasons.

Employment Judge: S Maclean
Date of Judgment: 12 July 2018
Entered in register: 16 July 2018
and copied to parties