



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr B Wheatley (Deceased)  
**Respondent:** Urban Splash Modular Limited  
**Before:** Employment Judge Brewer  
**Date:** 25 February 2022

## Representation

**Claimant:** No appearance  
**Respondent:** Ms N Dinnes, Solicitor

## JUDGMENT

The claimant's claims are dismissed.

## REASONS

1. This case was commenced by the presentation of a claim of form by the late claimant on 28 March 2021. Sadly, the claimant passed away in November 2021.
2. The respondent had sought an order for the claim to be struck out or in the alternative for the claimant to be required to pay a deposit as a condition of continuing his claim, and an open preliminary hearing to consider that matter it was scheduled to take place on 7 January 2022. In response to the notice of hearing the claimant's brother Mr Paul Wheatley sought assistance from the Tribunal as to how to proceed.
3. In response to that Employment Judge Heap explained to Mr Wheatley that a decision would have to be made on behalf of the late claimant's estate as to whether to continue the claim and she advised Mr Wheatley that section

206 of the Employment Rights Act 1996 allowed for a deceased claimant's claim to be continued either by that personal representative or what is termed an appropriate person which includes a deceased claimant's brother or wife.

4. Mr Wheatley was asked to confirm whether there was a personal representative, that is an executor or administrator of the estate, and was asked for a response within 14 days.
5. By an email of 14 January 2021 Mr Wheatley advised that the deceased claimant's widow was "ready" to continue with the claim although no details are given either of the name of the deceased claimant's widow or an address at which she could be contacted.
6. In the event, a preliminary hearing was re listed for today, 25 February 2022 at 11:30 am. In response to Mr Paul Wheatley's email of 14 January 2022, Employment Judge Clark advised Mr Wheatley that if he or anyone else wished to apply to continue the claim for the benefit of the deceased claimant's estate then they should:

*"set out the basis of the application in writing and send it to the tribunal and the respondent's representative not later than seven days before the hearing"*

7. He went on to state that should the claim be continued then the tribunal will make case management orders and relist the case for an open preliminary hearing to consider the respondents application to strike out the claim or require a deposit to be paid.
8. I dialled into the telephone hearing at 11:30 am. On the call was Ms Dinnes representing the respondent. No one appeared on the half of the claimant. Ms Dinnes Was kind enough to email Mr Paul Wheatley at around 11:35 am forwarding him a copy of the notice of hearing and advising him that we were waiting for someone to attend on behalf of the claimant. We waited until 11:46 am when it became clear that nobody else was going to attend the hearing.
9. In the circumstances, given the absence of any application to appoint any person under section 206, Employment Rights Act 1996 I consider that the claim is at an end.

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Employment Judge Brewer

Date: 25 February 2022

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE

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