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EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4110996/2021

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Final Hearing Held by Cloud Video Platform (CVP) on 7 February 2022

Employment Judge: Russell Bradley

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Mrs Jade Cowie

**Claimant
No appearance
or representation**

Geoamey PECS Limited

**Respondent
Represented by:
T Cross
Consultant**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Tribunal is that the claim is dismissed under Rule 47 of the Employment Tribunals Rules of Procedure 2013.

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REASONS

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1. In an ET1 presented on 21 August 2021 the Claimant maintained a claim of arrears of pay and "*other payments*". The form disclosed an email address and the claimant's ability to take part in a hearing by video. It did not disclose a telephone number for her. On 25 August the Tribunal gave notice to the respondent of the claim and of a hearing fixed for 3 November 2021 at 2.30pm.

On 22 September 2021 an ET3 was lodged. The claim then proceeded on the basis that it was resisted by the respondent.

2. On 31 October the claimant emailed the Tribunal. In it she said, amongst other things, that she was on training with Police Scotland and had been drafted in to support COP26. She continued, "*I am aware that this is inconvenient to the situation but as stated above I cannot afford legal access to support me with my case.*" That email also attached what the claimant called "*all supporting evidence*". That material appears to be 6 attachments. It appears that this email was treated as an application to postpone the hearing of 3 November. On 2 November the respondent made representations concerning the hearing. By letter dated 2 November (emailed to the claimant at 3.21pm) the claimant was advised that on her application the hearing the next day was postponed. The stated reason for the postponement was "*there may not be sufficient time to complete the hearing.*" It appears that the claimant replied to that email the next day. At 8.05pm also on 3 November, the claimant emailed the tribunal office with about 15 further attachments said to be all supporting evidence for her claim of unpaid payments and of an allegation of a data protection breach.
3. On 12 November a Tribunal clerk emailed a notice of hearing to both parties. That notice fixed one day, 7 February 2022 at 10am, (erroneously referring to 2021) as the hearing of the case.
4. I was told by Mr Cross that he had received either from the Tribunal or direct for the claimant the material attached to her two emails (31 October and 3 November).
5. For this hearing, I saw a list of productions (of 85 pages). It had been prepared by Mr Cross for the respondent. I understood from him that it included the material which he had received directly or indirectly from the claimant. I also understood that he had sent the list and the productions to the claimant on 17 January.
6. On Friday 4 February Mr Cross exchanged emails with the claimant. The exchange concerned a document which the respondent wished considered in

addition to the productions. There was no suggestion in her reply that the claimant was unaware of the hearing fixed for 7 February. Neither was there any indication that that she was unable to attend or did not intend to do so.

- 5 7. In line with normal practice and as per the Notice of Hearing, the clerk attempted to contact the claimant before 7 February so as to test the internet connection and her equipment. He did so by email, without success. I understood from the clerk that he had attempted several times without success.
- 10 8. Prior to the start of the hearing on 7 February the clerk advised me again that he had not been able to contact the claimant. He had sought but not been able to obtain a telephone number from Mr Cross for the claimant. I suggested that the clerk should ask Mr Cross if his client was able to provide a telephone number for her, which he did. The clerk attempted to speak with the claimant prior to 10.00am by telephone using that number, without success.
- 15 9. At 10.00am the respondent, via Mr Cross, was ready to proceed. His witness was available to give evidence if necessary. I made a number of enquiries of him to do with preparation for the hearing and in particular his contact with the claimant.
- 20 10. At 10.30 I adjourned the hearing with an instruction to the clerk to both telephone and email the claimant with a request that she provide information by 11.00am as to her intentions. The clerk did so and the hearing reconvened at 11.00. There had been no contact from the claimant. I adjourned the hearing again until 11.15. There had been by that time still no communication from the claimant. On resuming, the respondent made a formal application under rule
25 47 that I dismiss the case.
- 30 11. I reminded myself of the terms of Rule 47. The claimant had had notice of this hearing on 12 November last year. It appeared from very recent correspondence both with the respondent and from the tribunal that she was aware that it was proceeding. She failed to attend. She did not seek to postpone it. She did not provide any information about or explanation for her

non-attendance. The respondent was, late in the proceedings, able to provide a telephone number for her. Enquiries of her were made in the course of last week and on 7 February all of which were clear indications that she was expected to be present. I took account of the fact that the claimant was aware
5 that on her application the previous hearing had been postponed. My assumption from that was that she would be aware of the necessity of appearing at this hearing. I also took account of the fact that on the morning of this hearing the clerk had attempted to contact the claimant on more than one occasion by telephone and left a message requiring her to respond, which she
10 did not do. He also emailed her with the same message and again she did not respond. In those circumstances, and on the application of the respondent I dismissed the claim under Rule 47.

15 Employment Judge: Russell Bradley
Date of Judgment: 07 February 2022
Entered in register: 11 February 2022
and copied to parties

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