



EMPLOYMENT TRIBUNALS

Claimant: Mr R Graham
Respondent: Sargent Shoes On-Line Ltd (in voluntary liquidation)
Heard at: Watford Employment Tribunal (in public; by video)
On: 11 March 2022
Before: Employment Judge Quill (Sitting Alone)

Appearances

For the Claimant: Ms Denise Graham (by telephone)
For the respondent: No Appearance or Representation (No response received)

JUDGMENT

1. The remedy award is nil. The file will be closed.
2. This decision does not affect the liability judgment dated 3 August 2021.

REASONS

3. Rule 47 states:

47. Non-attendance

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 enquiries that may be practicable, about the reasons for the party's absence.

4. Following a Rule 21 judgment in the Claimant's favour on liability, dated 3 August 2021, the parties were notified that there would be a video hearing on to decide on remedy. That notice of hearing was sent 22 August 2021 and gave the date and time as 10am on 11 March 2022.
5. No reply was necessarily required. The notice did inform the parties that written representations could be made. It informed the parties of the need to ensure that anyone who was attending the hearing on their side knew about it.
6. On 10 March 2022, joining details were sent. They appear to have been sent only to the Claimant. However, they were correctly addressed to the email address on the ET1 form.

7. At 10am, no-one having arrived in the video hearing room, a clerk attempted to call the number on the ET1. There was no reply and a voicemail was left. At 10.10am, there still being no attendees, I called the same number. It rang out for a long time, with no reply.
8. The clerk and I remained in the video hearing room. By 10.30am, there were still no attendees, and no phone or email correspondence. There had been nothing received from the Claimant since the ET1 itself, in April 2021. The Claimant was not in breach of any orders by failing to write to the tribunal, as there were no orders that he do so.
9. Shortly after 10.30am, I received a message that the Claimant's representative, his wife, had called the tribunal service and stated that she and the claimant could not attend today. While still in the public video hearing room, I phoned her back with the call on speaker and audible to all in the video room (though no members of the public were, in fact, present).
10. She told me, and I believe her, that the 22 August 2021 notice of hearing had not been received. The 10 March 2022 email had been received. I told her the same email address had been used, but I was not disputing that the first she and the Claimant knew that there was a hearing today was yesterday.
11. She told me that she and the Claimant were each at work today at their respective jobs. They could not attend the hearing today. She also told me that she had been unable to download Chrome to her phone to access the video hearing room.
12. I said that I was willing to postpone and arrange an in person hearing. Ms Graham informed me that she did not want me to do that, as Mr Graham would be unable to attend due to health reasons. He has recently had a heart attack, and an in-person hearing would cause stress. I suggested that the hearing could be deferred for, say, 6 months. Ms Graham informed me that an in person would not be appropriate at any stage.
13. I said that I was willing to postpone and arrange a further video hearing. Ms Graham asked if the matter could proceed in Mr Graham's absence. I said that in theory, yes, but the outcome was likely to be that no remedy award was made, as I had no information or evidence upon which to base an award.
14. Ms Graham asked if there would be costs against the Claimant if the claim continued. I said that I thought that to be very unlikely, but it was not possible for me to decide today that there would definitely be no costs award, regardless of what happened in the future.
15. I informed Ms Graham that I proposed to postpone the hearing, list it for a new date by video, and make some orders about documents that should be sent in, and by which date. I suggested that if, having seen the orders, the Claimant decided to withdraw, he should write in to the tribunal to say so.
16. Having heard my proposal, Ms Graham informed me that I should instead proceed in the Claimant's absence. I reminded her that that would be likely to mean that there was no remedy award. She confirmed that she

understood that, and that it was preferable to have a final outcome today rather than a postponement.

17. Based on what I was told, a postponement was not appropriate as there is no reason to think that the Claimant would attend the resumed hearing. I proceeded with this hearing under Rule 47, which is a rule which applies to any hearing.
18. There has been no new information or change of circumstances since a judge decided that a hearing was required to determine remedy. The claim form includes details of the Claimant's dates of employment. It implies that the Claimant was made redundant. It implies that there should have been collective consultation as per section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992. It gives no details of how many people were made redundant, or when, or what information was given to anybody, or when, or what arrangements (if any) were made to elect employee representatives.
19. I cannot make any award based on the information available at this hearing. My remedy decision is therefore that the protected period is nil, and there is no award.

Employment Judge Quill

Date: 11 March 2022

JUDGMENT SENT TO THE PARTIES ON

15 March 2022

FOR THE TRIBUNAL OFFICE

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