



## EMPLOYMENT TRIBUNALS

### Claimant

Mr Stefano Tempesta

### Respondent

v

1. Holtwhites Hotel & Day Care Centre  
(an unincorporated partnership)
4. Mr Paul Buxton
5. Mr Sawas Michael
6. Holtwhites Ltd

## PRELIMINARY HEARING

Heard at: Watford (in public)

On: 1 March 2022

Before: Employment Judge Alliott (sitting alone)

### Appearances:

For the Claimant: Did not attend  
For the Respondents: Ms B Omotosho (Solicitor)

## JUDGMENT

The Judgment of the Tribunal is that:

1. The claimant's claims against all respondents are dismissed.

## REASONS

1. The claimant's absence.
  - 1.1 On 6 April 2021 this case was listed for a four-day full merits hearing starting today. The claimant was in attendance at that hearing.
  - 1.2 At the hearing on 6 April 2021 Employment Judge Quill refused permission for the claimant to amend his claim to include allegations of age discrimination.

- 1.3 Ms Omotosho informed me that, following the decision to refuse him permission to amend his claim, the claimant informed Employment Judge Quill that he was considering not proceeding with this claim.
- 1.4 On Friday 25 February 2022 Ms Omotosho sent an email to the claimant as follows:-
- “Further to the Tribunal’s Order can you confirm if you are still proceeding with your matter and if so can we agree witness statement exchange for Monday”
- 1.5 The claimant replied:-
- “... a clap of hands to you and Judge Quill...”
- 1.6 On 26 February 2022 Ms Omotosho sent an email to the claimant stating as follows:-
- “It seems you have not been actively pursuing the claim since being unhappy with the judgment of Employment Judge Quill.
- Kindly confirm by responding to both myself and the Tribunal if this is the case and your intention to no longer proceed with the matter, so it can be withdrawn.”
- 1.7 On 26 February 2022 the claimant replied in two emails as follows;-
- “... once again a clap of hands to you and Judge Quill!!!...”
- and
- “... and don’t fucking write me “dear”, I’m not your fucking “dear”, maybe Judge Quill is, but not me at all!!!... a clap of hands!!!”
- 1.8 On 27 February 2022 Ms Omotosho emailed the Tribunal making an application to strike out the claimant’s claims on the grounds that his conduct had been unreasonable and that he was not actively pursuing the claim.
- 1.9 On 28 February 2022 the claimant sent two more emails to the Tribunal. They are too long to quote in full. It is fair to say that the claimant indicates that he disagrees with EJ Quill’s decision. As regards the claimant’s presence here today the claimant states:-
- “So now the point is, why would I have to further waste my time and my money coming to Watford to undergo another “mockery” as I had to undergo at the time I was working at that hotel?? THE CASE HAS TO GO ON BECAUSE...”
- 1.10 At 10am today the claimant was not in attendance. I adjourned at 10:18 in order to make enquiries of the claimant.

- 1.11 At 10:18 my clerk telephoned the claimant. I have been informed by the clerk that the claimant said that he was not happy with the situation, that he had sent an email to the Tribunal to explain and that he would not be attending. He gave no reason for his non-attendance. (There is a tube strike today but this was not given as a reason for him not being in attendance).
  - 1.12 I have concluded that the claimant has deliberately failed to attend today and consequently I have decided to proceed with this hearing pursuant to Rule 47 ET's (Constitution & Rules of Procedure) Regulations 2003.
2. The respondent's application to strike out
- 2.1 On 6 April 2021 Employment Judge Quill made Case Management Orders. Although the claimant had already prepared a statement of remedy/schedule of loss he was ordered to provide a further statement of remedy by 11 May 2021 to include details of any alternative employment and earnings that he had achieved since dismissal along with details of social security benefits received. The claimant failed to comply with this Case Management Order.
  - 2.2 In addition, the claimant was ordered to disclose documents by 8 June 2021, agree a final hearing bundle by 6 July 2021 and exchange his witness statement by 27 September 2021. The claimant has failed to comply with any of those Case Management Orders.
  - 2.3 The hearing of this four-day hearing was postponed due to a lack of judicial availability. However, it remained listed as an Open Preliminary Hearing to consider whether the claim should be struck out.
  - 2.4 I have concluded the following:-
    - 2.4.1 The manner in which the proceedings have been conducted by the claimant have been unreasonable and I strike out his claims pursuant to Rule 37(1)(b) of ET's (Constitution & Rules of Procedure) Regulations 2013.
    - 2.4.2 The claimant has failed to comply with a number of orders of the Tribunal and I strike out his claims pursuant to Rule 37(1)(c) of ET's (Constitution & Rules of Procedure) Regulations 2013.
    - 2.4.3 The claim is not being actively pursued and I strike out the claim pursuant to Rule 37(1)(d) of the ET's (Constitution & Rules of Procedure) Regulations 2013.
    - 2.4.4 The claimant has failed to attend or be represented at this hearing and I strike out his claims pursuant to Rule 47 ET's (Constitution & Rules of Procedure) Regulations 2013.

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**Employment Judge Allott**

16 March 2022

Sent to the parties on:

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For the Tribunal:

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