



EMPLOYMENT TRIBUNALS

Claimant: Mrs Inderjeet Basran

Respondents: (1) Berkley Care Group Limited
(2) Ryefield Court Care Limited
(3) Ms Clare Hodges
(4) Ms Amanda Tanner

Heard at: Watford Hearing Centre (by telephone)

On: 31 May 2022

Before: Employment Judge G Tobin (sitting alone)

Appearances

For the claimant: Not present or represented
For the respondent: Ms A Afriyie (consultant)

JUDGMENT

The claimant's claims are dismissed, pursuant to rule 47 of the Employment Tribunals Rules of Procedure 2013.

REASONS

- 1 The hearing was listed as a closed Preliminary Hearing for 31 May 2022. The original notice of hearing was sent to the parties on 15 December 2021. The purpose of the hearing was to determine: (i) the correct respondents (and whether the claimant objected to the first respondent being dismissed as a party following the respondents contending that the second respondent was the correct employer); (ii) to identify the legal and factual issues the Tribunal had been asked to decide; and (iii) determine the case preparation required and to set out an appropriate preparation timetable. On 29 May 2022 the claimant was

emailed a further or second notice of hearing (for 31 May 2022) converting the in-person hearing to a telephone hearing and asking that the parties provide their (and/or their representatives) telephone numbers. The respondents complied with this request, the claimant did not. Two Employment Tribunal clerks thereafter emailed the claimant at the contact email address provided (twice) without further response. The claimant did not contact the Tribunal offices further nor did she or her representative attend the hearing centre as originally listed.

- 2 In view of the claimant's non-attendance, I first considered whether to proceed in the claimant's absence. No request for an adjournment had been made; indeed, I could not think off any reason to justify an adjournment. If I did not proceed today, I could not be assured that we would not experience similar non-attendance at any reconvened hearing. Accordingly, I decided that it was appropriate and within the overriding objective of rule 2 of the Employment Tribunal's Rules to proceed in the claimant's absence.
- 3 The claimant claimed race discrimination. Her complaint was vague and difficult to understand. There was no discernible cause of action against the third respondent and fourth respondent. So far as I could understand the dispute, the claimant said that she was a kitchen assistant since 30 May 2018. She said that she raised concerns with the head chef (MMB) about a sous chef (AM) not pulling her weight. The claimant said she was violent assaulted thereafter (and does not say by whom) which she reported to the police and was not pursued. Thereafter the claimant said she was bullied but does not give details. The claimant says in her details of complaint that she has not yet whistle-blown, but she appears to intimate that she may in the future. The claimant also ticked the box on the Claim Form saying that she was owed money from the respondent, but she did not explain why. The Response was filed for all 4 respondents and denied all of the claimant's claims. The respondents contended that the claimant raised a grievance and the outcome was given on 21 June 2021. In addition, the respondents contended that there was no protected disclosure made for a whistleblowing claim nor was there any possible protected act for a complaint of victimisation (if in fact one had been made)
- 4 On 15 December 2021 Employment Judge Smeaton ordered that the claimant provide further particulars of her claim by 29 December 2021. By separate letter, EJ Smeaton also requested clarification from the claimant (by 22 December 2021) in respect of the identity of her employer. Finally, EJ Smeaton made case management orders.
- 5 The claimant did nothing in response to the order requiring her to provide further information: she did not provide any further information at all, and she gave no reason for his failure to provide any further information.
- 6 Ms Afriyie was accompanied by Ms Lea Smith of the respondent who informed me that the claimant had resigned on notice on 29 October 2021 and the resignation took effect so as to terminate her employment on 12 November 2021.

- 7 On 14 February 2022 the claimant's representative (whom Ms Afriyie tells me is the claimant's husband) applied to amend the claimant's claim to make to additional claims of constructive dismissal and breach of contract. The claimant's representative gave a further unintelligible 43-page narrative supporting such application. As neither the claimant nor her representative made themselves available to explain the late application or clarify the substance of the further complaints, having considered the matter, I dismiss this application to amend.
- 8 The respondent's made a detailed application to strike out the claims under rule 37, which was sent to the claimant on 5 May 2022. Ms Afriyie tells me that the claimant has not responded to this application.
- 9 Ms Afriyie Informed me that she corresponded with the claimant to attempt to agree her agenda input for this hearing but there was no reply from the claimant or her representative. The claimant has not complied with the case preparation steps that have fallen due and Ms Afriyie advised me that there has been a pattern from the claimant of ignoring all correspondence from respondents relating to clarifying or progressing her claim. Ms Afriyie tells me, which I accept, that the respondent has heard nothing further from the claimant since 2 March 2012.
- 10 The purpose of 31 May 2022 hearing was to identify the correct respondents. Mrs Smith says the first respondent is the former management company. There is no clarity as to why the third and fourth respondents are parties to these proceedings. I do not understand the nature of the claimant against the first and/or second respondents nor have I any comprehension of the factual allegations made against either or both. The purpose of this hearing was to clarify these matters. For the reasons set out above and for the substantive reasons set out in the respondents' application I cannot be confident that if I reschedule this hearing the claimant or her representative will attend.
- 11 In the circumstances, rule 47 of the Employment Tribunals Rules of Procedure 2013 ("the 2013 Rules") applied. That provides:

"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."
- 12 I concluded that the claimant was not co-operating in identifying or preparing her claims. Dismissal is a draconian measure. However, dismissal is proportionate and justified in the circumstances of this case. The Employment Tribunal is operating with limited resources. It is entirely appropriate that we expect a party to co-operate with other parties and with the Tribunal to ensure her case is adequately identified and prepared for hearing. The claimant has had sufficient

opportunity to engage with the Tribunal. We cannot continuously indulge recalcitrant parties. In the circumstances, it is appropriate to dismiss the claimant's claims.

Employment Judge Tobin

Date: 15 June 2022

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE