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**EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: 4100001/2022 (V)**

**Hearing Held via Cloud Video Platform (CVP) on 17 March 2022**

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**Employment Judge J McCluskey**

**Mr M Gray**

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**Claimant  
Not present  
Not represented**

**International SOS Medical Services (UK) Limited**

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**Respondent  
Ms K Garretty  
Representative**

**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

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The Judgment of the Tribunal is that the claim is dismissed in terms of rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, the claimant having failed to attend the hearing and reasonable enquiries having been made as to the reason for his non-attendance.

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## REASONS

### Introduction

1. This was a final hearing. It was fixed to determine the claimant's claim for arrears of pay. His ET1 was presented on 1 January 2022. ACAS early  
5 conciliation commenced on 28 October 2021 with a certificate being issued on 9 December 2021. The claim was resisted.
2. The Tribunal wrote to the claimant by correspondence dated 6 January 2022. The claimant was advised that his case would proceed to a final hearing at 11am on 17 March 2022. The claimant was advised that the final hearing  
10 would take place by video call using Cloud Video Platform (CVP). The claimant had ticked the box on his ET1 to confirm that he would be able to take part in a hearing by video. The claimant was advised that if he considered that a Cloud Video Platform (CVP) hearing would not be appropriate in his case he required to let the Tribunal know within 7 days and to explain why.  
15 No response was received from the claimant to say that a CVP hearing would not be appropriate.
3. The Tribunal wrote to the claimant on five occasions between 1 March and 16 March 2022 to invite him to attend a test for the CVP hearing which had been fixed. The Tribunal clerk used the email address provided on his ET1. The  
20 claimant had been using this email address to correspond with the Tribunal in connection with the quantification of his claim. The Tribunal records show that no response was received from the claimant to the invitations to attend a test. The Tribunal attempted to call the claimant in connection with the test on the mobile phone number provided on his ET1. The auto response  
25 message was that the number provided was not recognised. The CVP hearing joining details were emailed to the claimant on 16 March 2022. The Tribunal records show that no response was received from the claimant to the CVP hearing joining details.

4. At the CVP hearing start time of 11am on 17 March 2022 the respondent was in attendance. The claimant was not in attendance. Efforts were made on the morning of the hearing, both before 11am and at the start time of 11am, by the Tribunal clerk to contact the claimant by email. The claimant did not  
5 respond. The Tribunal clerk tried again to call the mobile number provided on his ET1. The auto response message remained that the number was not recognised.

### Relevant law

5. Rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 (“ET Rules”) provides that if a party fails to attend or be  
10 represented at the hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, the Tribunal shall consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence.

### 15 Discussion and decision

6. In terms of rule 47, I considered the information available to me. I noted on the ET1 that the claimant had ticked the box indicating that he would be able to take part in a Cloud Video Platform (CVP) hearing. The correspondence advising the claimant of the date and time of the CVP hearing had been sent  
20 to the address the claimant had provided in his ET1. I noted that the claimant had been contacted by the Tribunal on several occasions, using the contact details provided in the ET1, to try to ascertain his position about attending the CVP hearing. No response at all was provided by the claimant. I had no information whatsoever about the reason for the claimant's absence at the  
25 hearing. In the circumstances I concluded that the claimant did not insist upon his claim.

7. In reaching my decision I took account of the overriding objective within the ET Rules. I considered that in all the circumstances of this case it was fair and

just that the claim be dismissed, having considered the information available to me and balanced the interests of both parties.

5 8. I reminded myself that a claimant has a right to seek a reconsideration in the interests of justice under rules 70 and 71 of the ET Rules within 14 days of the issue of this judgment to parties. However, such a reconsideration would be subject to a proper explanation being provided to the Tribunal for the claimant's non-attendance.

9. In the circumstances the claim is dismissed.

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**Employment Judge McCluskey**

**Date of Judgment: 17 March 2022**

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**Date sent to parties: 18 March 2022**

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