



EMPLOYMENT TRIBUNALS

Claimant: Mr C Williams

Respondent: Swansea Sand & Gravel Limited

Heard at: Cardiff

On: 30 June 2022

Before: Judge MM Thomas

Representation

Claimant: No attendance

Respondent: Mr S Morgan, Director of the Respondent

JUDGMENT

The claim is dismissed pursuant to Rule 47 of the Employment Tribunals Rules of Procedure 2013

Reasons

1. Pursuant to Rule 47 if a party fails to attend or be represented at the hearing the Tribunal may dismiss the claim. This is the Claimant's claim, he has not attended the hearing nor has any communication been received from him to explain his absence.
2. Until yesterday, 29 June 2022, the Claimant was represented by Mr W Cowley of the Newport CAB. By an email of the same date the CAB came off record as representatives as despite *'attempts to contact the Claimant by telephone, email and letter (both recorded delivery and otherwise) we have been unable to obtain instruction....'*
3. By the Tribunal's directions dated 3 March 2022, the Claimant was notified that the hearing of his claim was on today's date, 30 June 2022.
4. In the same directions, the Claimant was advised that the hearing would be in person. Further, at that time directions were given by the Tribunal to progress the claim, but other than the direction that the Claimant file a Schedule of Loss, no other direction has been complied with.
5. I am satisfied that the Claimant had notice of today's hearing and has chosen not to attend or to participate. The email from the CAB clearly indicates that

it has made numerous attempts to contact the Claimant about today's hearing and has had no response.

6. On the contrary, Mr Morgan, the director of the Respondent has attended. Mr Morgan makes two submissions, first, that the claim has been brought against the wrong business. He states that he advised both the CAB and ACAS of this by email and yet, the claim proceeded. The Claimant's contract was with 'SA Morgan Transport', a haulage business run by Mr Morgan not the Respondent. The second submission is that all aspects of the claimed loss are rejected. The Respondent asserts that no monies are owing to the Claimant.
7. In summary, albeit I dismiss this claim pursuant to Rule 47, I have also considered Rule 37, that is, whether the claim should be struck out on the basis that the wrong Respondent has been named and as such, the claim has no prospects of success. Nevertheless, I have not done so principally because before today, the Respondent, other than stating that it had been wrongly named, had not provided the information now provided. Mr Morgan states that he did provide the information to the CAB and ACAS although, despite his assertion of that, I have not been provided with any documentary evidence in support. Therefore, in the absence of further evidence on this issue, I do not strike out.
8. In making the decision to dismiss the claim I have considered Rule 2 of the Employment Tribunals Rules of Procedure 2013.

Judge MM Thomas

Date 30 June 2022

JUDGMENT SENT TO THE PARTIES ON 7 July 2022

FOR THE TRIBUNAL OFFICE Mr N Roche