

Case Number: 2305596/2021



EMPLOYMENT TRIBUNALS

Claimant: Ms Yudi Daniela Flores Garcia

Respondents: (1) Innoventive Limited; (2) The Amita Corporation Limited; (3) Innoventive Property Services Limited

Heard at: London South Employment Tribunal (by Video/CVP) On: 21 July 2022

Before: Employment Judge Chapman QC (sitting alone)

Representation

Claimant: Not attending and not represented

Respondents: Mr Alan Williams, Solicitor, Peninsula Group Limited (by CVP).

JUDGMENT

Upon the Claimant having (a) failed to comply with the Employment Tribunal's Case Management Order attached to the Notice of Hearing dated 20 December 2021; and, (b) having failed to attend the public hearing by video listed at 2 pm on Thursday 21 July 2022, this claim is struck out pursuant to rule 37(1)(c) and (d) of the Employment Tribunals Rules of Procedure.

REASONS

1. The Claimant's ET1 Claim Form identified two Respondents: the First Respondent, Innoventive Limited and the Second Respondent, The Amita Corporation Limited. ACAS Early Conciliation Certificates referred to the same two Respondents.
2. The First and Respondents subsequently filed ET3 Response Forms which did not contain any grounds of resistance, but which did intimate, in the covering correspondence, that the claim was being pursued against the wrong Respondents. The Tribunal wrote to the First and Second Respondents on 17 February 2022 asking whether they resisted the claim and whether they employed the Claimant. By email of the same date, Mr D'Cruz indicated that there had been no dealings between the Claimant and the First and Second Respondents at all and that, instead, the Claimant had taken part in an interview process with a corporate entity called Innoventive Property Services Limited (now, the Third Respondent). ET3 Response Forms with detailed grounds of resistance were subsequently filed by the First, Second and Third Respondents. By email to the Tribunal, copied to the Respondents and dated 16 March 2022, Maria Munir (the Claimant's former Union Representative at the CAIWU) stated that the Claimant accepted that the correct and appropriate Respondent was Innoventive Property Services Limited. As I have indicated, Innoventive Property Services Limited have been added to this claim as Third Respondent but are not named on any early conciliation certificate. To date, the claim has neither been rejected nor permitted to proceed pursuant to rule 12A(2) of the Employment Tribunals Rules of Procedure.
3. A Case Management Order providing a timetable for the service of documents, including a Schedule of Loss, and evidence was attached to the Notice of Hearing (see, Notice dated 20 December 2021). The present Hearing was listed to take place by video at 2 pm on 21 July 2022 and this date and time appeared at the front of the Notice of Hearing. The Respondents filed a Bundle of Documents for the Hearing, together with a written witness statement from Mr D'Cruz, Finance Director with the Respondent companies. The Claimant has not filed or served any documents, nor any witness statement for the Hearing. There has been no

compliance by her with the Case Management Order that was made in December 2021. By email dated 11 July 2022, the Claimant's former Union representative informed the Tribunal and the Respondents (copied in) that they no longer acted for the Claimant and also stated that they had copied this email to the Claimant.

4. The Claimant's ET1 indicated that she could take part in a video hearing, but the Claim Form contained only her postal address by way of contact detail. There were no telephone numbers and no email addresses for the Claimant on the ET1. The hard copy and electronic files retained by the Tribunal contained no contact details for the Claimant. There were no direct communications to/from the Claimant on file. I was informed upon enquiry that the Respondents had sent the Bundle of documents and the witness statement of Mr D'Cruz to the Claimant at her postal address (being the only contact detail that the Respondents had for her). The Respondents had received no direct communications at all from the Claimant.
5. The Respondents were represented by Mr Williams, solicitor, at the video hearing at 2 pm on 21 July 2022 and Mr D'Cruz was also present on the call (in order to give evidence). The hearing commenced at 2 pm and was put back for 20 minutes while the Tribunal clerk made enquiries by telephone of the Claimant's former Union representative in order to ascertain the Claimant's whereabouts and whether she intended to attend the Hearing and/or pursue her claim. Contact was made with the Union by telephone (at their general enquiries desk), but the person answering the telephone at the CAIWU was unable to provide any relevant information (beyond indicating that she would need to refer matters to an unnamed colleague).
6. In the absence of any attendance by the Claimant and, given her failure to comply with the Tribunal's Case Management Orders and actively to pursue her claim, this matter is struck out pursuant to rule 37(1)(c) and (d) of the Employment Tribunals Rules of Procedure. In the further alternative, the claim is dismissed for non-attendance by the Claimant pursuant to rule 47.

Employment Judge Chapman QC
Dated: 21 July 2022

Note

Written reasons will not be provided unless a written request is presented by either party within 14 days of the sending of this written record of the decision.

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