



EMPLOYMENT TRIBUNALS

Claimant: Miss E Kosnik
Respondent: Total Recruitment Solutions Ltd
Heard at: Liverpool (final hearing in public via CVP)
On: 15 August 2022
Before: Judge Brian Doyle

Representation:
Claimant: Not in attendance or represented
Respondent: Not in attendance or represented

JUDGMENT

Acting in accordance with rule 47 of the Employment Tribunals Rules of Procedure 2013, and neither party being in attendance, the claim is dismissed.

REASONS

1. This was to be the final hearing of a claim in which the claimant complains of non-payment of holiday pay (and possibly sick pay).
2. The final hearing had been listed for 17 June 2022, but it was postponed on the day because of the non-attendance of the respondent and some confusion about the notice of hearing. The final hearing was re-listed for 15 August 2022 at 10.00am.
3. On 12 July 2022 the Tribunal issued case management orders requiring the claimant to set out the amounts that she was claiming, and requiring both parties to exchange documentary evidence and witness evidence, with copies to the Tribunal.
4. The Tribunal had received no evidence as required by that case management order, either before the hearing or by the time that the hearing was due to start or at all. This made it almost impossible to decide the claim on its merits in the absence of one or both parties.

5. Neither party was in attendance or represented at the hearing. The Tribunal waited until 10.30am.

6. The judge considered that in those circumstances, and in the absence of any communication from the parties since April 2022 or since the postponed hearing on 17 June 2022, there was no purpose in trying to contact the parties (as the Tribunal would have done if one of the parties, but not the other, had been present in some form). The suggestion that the case management orders had not been complied with pointed towards the likelihood that the claim had been settled in some way.

7. In these circumstances, the Tribunal was unable to consider the claim on its merits without some evidence that goes beyond what is asserted in the ET1 and the ET3.

7. Accordingly, as permitted by rule 47, the claim is dismissed. The Tribunal takes that course confident in the understanding that if the absence of one or both parties this morning is inadvertent, or otherwise explicable, then the Tribunal would readily revoke this judgment under rules 70-73 and re-list the final hearing.

Judge Brian Doyle
DATE: 15 August 2022

JUDGMENT SENT TO THE PARTIES ON
19 August 2022

FOR THE TRIBUNAL OFFICE

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.