



EMPLOYMENT TRIBUNALS

Claimant: Mr Joao Renato Gouveia

Respondent: Metroline Travel Limited

Heard on: 27 September 2022 by Cloud Video Platform

Before: Employment Judge Saward (sitting alone)

Representation

Claimant: No attendance or representation

Respondent: Clare Nicolaou (Solicitor – non-practising)

JUDGMENT

1. The Claimant having failed to attend or to be represented at the full merits hearing listed on 27 September 2022, his claims are dismissed under Rule 47, Schedule 1 of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013.

REASONS

1. The claimant submitted a claim on 22 November 2021 for (1) notice pay (2) unlawful deductions from wages and (3) breach of contract for non-payment of company sick pay. The Claim Form gave incomplete details of his claims and the sums sought. The respondent resisted the claim in its response.
2. The claim was listed for video hearing today, 27 September 2022. Within the Notice of Hearing dated 2 April 2022 the Tribunal issued Case Management Orders in preparation for this full merits hearing.
3. An application made by the respondent on 12 April 2022 to postpone the Hearing was refused by the Tribunal on 4 July 2022. The respondent subsequently applied on 5 September 2022 to strike out the claimant's claim for non-compliance with the Case Management Orders. The Tribunal directed that the case remain as listed.

4. The claimant failed to attend or to be represented at the hearing on 27 September 2022. Notice of Hearing was sent to both parties on 2 April 2022. A further letter sent to both parties by the Tribunal on 21 September 2022 confirmed that the hearing remained listed for today. The letter advised that if the claimant did not attend the hearing then Rule 47 will apply and the claim may be dismissed under that rule.
5. Rule 47 of the Employment Tribunals Rules of Procedure 2013 ('the 2013 Rules') provides that 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.
6. The Tribunal had received no prior notification of the claimant's intended absence. The hearing was adjourned at 10.08am whilst the Tribunal clerk sought to contact the claimant to establish the reason for his absence. Upon telephoning the claimant, he informed the clerk that he would not be attending the hearing due to work. The claimant said that he had was going to email the Tribunal to say he would not attend, but had not yet done so.
7. As the claimant failed to adhere to the Case Management Orders of 2 April 2022, there was no evidence for the Tribunal to consider. I have had regard to the information within the Claim Form but the details of claim are incomplete and unclear. The burden was on the Claimant to prove his claim. There is no duty upon the Tribunal, of its own motion, to investigate the case before it. Nor is the Tribunal required to satisfy itself that, on the merits, the respondent has established a good defence. It is further noted that the claimant failed to actively respond to the respondent's attempts to secure compliance with the Case Management Orders. There was no request for a postponement or satisfactory explanation for his absence without prior notification. Having regard to the overriding objective, I do not consider it fair or just to postpone the case of the Tribunal's own volition given the claimant's failure to progress his claim.
8. In all the circumstances, the Tribunal has decided to dismiss the claimant's claim for non-attendance pursuant to Rule 47 of the 2013 Rules.

Employment Judge Saward

Date: 27 September 2022

JUDGMENT & REASONS SENT TO THE PARTIES ON
14.10.2022

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J Moossavi

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FOR THE TRIBUNAL OFFICE