



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Miss J Fletcher

v

Verisure Services (UK) Limited

Heard at: Watford Employment Tribunal (by video)

On: 10 October 2022

Before: Employment Judge P Klimov (sitting alone)

Representation:

For the Claimant: Not present or represented

For the Respondent: Ms R Snocken (of Counsel)

JUDGMENT

The Claimant's claim is dismissed for non-attendance (Rule 47, Employment Tribunals Rules of Procedure 2013).

REASONS

1. On 7 August 2022, the Tribunal listed the case for an open preliminary hearing on 10 October 2022, starting at 10am (later changed to 2pm), by video. The hearing was to consider, *inter alia*, whether the claimant's claims were out of time.
2. The joining instructions for the hearing were sent to the parties on Friday, 7 October 2022.
3. Nine minutes before the start of the hearing the claimant wrote to the Tribunal "to make [the Tribunal] aware" that she needed to postpone the hearing "for multiple reasons". She did not say what the reasons were.
4. The respondent joined the hearing. The claimant did not join the hearing.

5. A few minutes after 14:00 the clerk called the claimant. The claimant told the clerk that she was not going to join the hearing because she had asked to postpone it. The clerk asked the claimant to forward the email with her request for a postponement.
6. When the clerk passed that information to me, I instructed the clerk to call and email the claimant to tell her that she must join the hearing, and if she did not – the hearing will proceed in her absence, a judgment could be made dismissing her claim, and she could also be made liable to pay the respondent's costs.
7. The clerk first was unable to get through on the phone to the claimant. However, at about 14:15 – 14:20 the clerk spoke with the claimant and passed that information on. The claimant said that she could not join the hearing and asked what "the costs" for the postponement was. The clerk also emailed the claimant with the same information.
8. A few minutes later I instructed the clerk to call the claimant again and tell her that the hearing will start at 14:30 and tell the claimant again that if she did not join the hearing, it will proceed in her absence, a judgment could be made dismissing her claim and she could also be made liable to pay the respondent's costs.
9. The clerk called the claimant and passed that information on. The clerk also asked the claimant to reply to her earlier email.
10. At 14:30 the claimant replied to the clerk's email stating that she could attend the hearing but did not have a representative, and that there were "*multiple reasons why [she] would like to postpone*". She did not state what the reasons were. She also asked what "*the fee*" "*[i]f you allow me to postpone*" was.
11. The clerk wrote back telling the claimant to join the hearing.
12. I waited another 5 minutes before starting the hearing. The claimant did not join.
13. I explained the situation to Ms Snocken and ask her to make any representations on behalf of the respondent. Ms Snocken said that the claimant had sent an email to the respondent's solicitors on Sunday evening saying that she wished to postpone the hearing because she was advised to do so by her solicitor. The respondent's solicitors replied by return telling the claimant that an application to postpone must be made to the Tribunal, and if made the respondent was likely to be oppose it. They also explained that an application to postpone on such a short notice would only be granted in exceptional circumstances, and until it was granted the hearing remained listed for 2pm on Monday, 10 October 2022. They also recommended to the claimant that she sought legal advice.

14. The claimant did not copy the respondent on her application to postpone at 13:51 on Monday, 10 October 2022. I read out the claimant's email to Ms Snocken.
15. Ms Snocken said that the claimant had failed to engage with the respondent in the preparation for the hearing, including in agreeing on the content of the hearing bundle. She also pointed out that the hearing had been listed in August 2022, and the claimant had ample time to apply for a postponement. The claimant did not provide any reasonable explanations why she sought a postponement on such a short notice.
16. First, I considered whether I should proceed and deal with the issues for the hearing in the claimant's absence and decided against that. The claimant's claims required clarifications, and in the absence of the claimant or any written representations from her it was not possible to clarify the issues in the case and give case management directions. Also, it was not possible to deal with the respondent's applications for strike out/deposit order, Ms Snocken indicated the respondent was planning to make at the hearing.
17. I then considered whether the hearing should be postponed. I decided against postponing the hearing. The claimant's application was extremely late, she did not give any reasons for seeking a postponement. She did not explain why the application was made so late in the day. That is despite the claimant stating that she had consulted a solicitor before seeking a postponement.
18. She was given several opportunities to join the hearing. In her last email to the Tribunal, she said that she could join the hearing, and yet she did not do that. All reasonable attempts have been made to make the claimant to join the hearing. She was given several warnings that if she did not join the hearing, the hearing will proceed in her absence and a judgment could be made against her and she could be made liable to pay the respondent's costs. She did not heed to the warnings. She did not provide any explanation why she could not join the hearing or why, having said that she could, still failed to do so.
19. In short, there were no valid reasons to grant a postponement.
20. In the circumstances, I decided that it would be in accordance with the overriding objective to exercise my powers under Rule 47¹ of the Employment Tribunals Rules of Procedure and dismiss the claimant's claim.
21. At the end of the hearing Ms Snocken indicated that the respondent was likely to be seeking a costs order against the claimant, but she needed to take instructions on that. Under Rule 77 of the Employment Tribunals Rules of Procedure 2013, the respondent has 28 days after that date on which this judgment is sent to the parties to apply for a costs order.

¹ **47. Non-attendance**

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.

Employment Judge P Klimov

10 October 2022

Sent to the parties on:

27 October 2022

Naren Gotecha

For the Tribunals Office

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