



EMPLOYMENT TRIBUNALS

Claimant: N Gillen
Respondent: Whitbread Group PLC
Heard at: East London Hearing Centre (by CVP)
On: 29 November 2022
Before: Employment Judge Anderson
Members: Ms P Alford
Ms M Legg

Appearances

For the Claimant: Did not attend
For the Respondent: M Foster (solicitor)

JUDGMENT

1. The claimant's claims of race discrimination, pregnancy and maternity discrimination, and unlawful deduction from wages are dismissed as the claimant failed to attend the hearing.

REASONS

1. This case was listed for a three-day hearing due to commence today. Ms Gillen brought claims of race and maternity discrimination as well as a claim for unpaid wages.
2. The final hearing was listed at a preliminary hearing on 25 September 2021 at which the claimant was present. On 6 September 2022 the claimant sought a postponement of the hearing on the grounds that she had started a new job and was unable to take annual leave in 2022. The respondent objected to a postponement and on consideration the tribunal refused the application. The claimant renewed the application, and it was reconsidered by EJ Jones. In a decision dated 3 October 2022 EJ Jones refused the postponement application for the second time.

3. The claimant did not attend the tribunal this morning. The tribunal clerk telephoned the claimant, and she did not respond. The tribunal clerk then emailed the claimant, but again she did not respond.
4. Mr Foster, for the Respondent, said that he had contacted the claimant on approximately six occasions since September 2022 and had received no acknowledgement. He noted that there had been no contact from the claimant in response to tribunal communications about a shortening of the hearing or the change in format from in person to CVP.
5. Mr Foster said that the tribunal should dismiss the claim. Any further delay would be prejudicial to the respondent, and as the claim was of a nature in which the claimant needed to prove a prima facie case, it was not practicable to proceed in her absence where she was not present to prove the case.
6. Under Rule 47 to Schedule 1 of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013 the Tribunal may dismiss a claim or proceed with it in a party's absence. The Tribunal also has the authority, under Rules 29 and 41, to postpone a hearing.
7. The Tribunal, having considered the matters set out above, dismisses the claimant's claim of direct discrimination, maternity discrimination and unlawful deduction from wages. The claimant was aware that the hearing would begin at 10 am this morning. She was aware that the tribunal had rejected her application for a postponement. No other reasons have been provided either for her non-attendance this morning or as to why the hearing should be postponed. The case relates to matters that took place in 2019 and 2020. The tribunal accepts that any postponement would be prejudicial to the respondent in costs and evidence terms. The tribunal finds that it would not be practicable to continue in the claimant's absence where she needs to be present to set out her case of discrimination.

Employment Judge Anderson
Date: 29 November 2022