



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss P Holewinska

**Respondents:** FPM Foods Limited

**Heard at:** by CVP                      **On:** 2 December 2022

**Before:** Employment Judge Beaver

## **Appearances**

For the claimant: not attending

For the respondent: not attending

## **JUDGMENT**

Having made such enquiries that were practicable, considering the information available to it, the Judgment of the tribunal is that **the claimant's claim is dismissed** following non-attendance under rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

## **REASONS**

1. The claimant did not attend the hearing.
2. The Notice of Video hearing was sent to the parties on 27 July 2022. This followed the Case Management Orders of EJ Leith on 6 July 2022. The claimant was sent the Notice of Hearing by email to the email address on the ET1 claim form. As the Respondent had failed to provide witness statements, EJ Leith ordered that the Respondent was not permitted to rely on any witness evidence without the leave of the tribunal.
3. The tribunal commenced the hearing today at 10.00am. There was no attendance by either party. There was no indication from the claimant of her non-attendance.

4. The tribunal attempted to contact the parties. By email at 10.21, the claimant's former representative responded to assert that she had not contact from the claimant following the July hearing but that she contacted the claimant and the claimant reported to her that the claimant apologizes for not giving any notice to the tribunal but she "has had some medical procedure and recovers. She would like to ask the court kindly to postpone the hearing to any date after 6 months from now please".
5. The tribunal then sent an email to the claimant at 10.51. The letter stated that if the claimant wished to apply to adjourn, this required a full explanation including when the claimant first knew of the need for a postponement. The letter also stated that the hearing will recommence at 11.30 and that the Judge may proceed in the claimant's absence and may decide to dismiss the claim.
6. There was no response by 11.30. The hearing re-commenced at 11.40. There was no attendance by or on behalf of the claimant.
7. The tribunal had received no further explanation as to why in fact the claimant could not attend the hearing today and why the claimant could not have informed the tribunal at any earlier point. In the absence of facts to support exceptional circumstances, the tribunal had regard to the provisions of rule 30A of the 2013 Rules. The tribunal had regard to the overriding objective and considered that it would not be an appropriate use of its power to postpone the hearing and to relist with the consequence that other tribunal users' will be adversely affected. The tribunal treated the email at 10.21 as an application to adjourn and the tribunal refused the application.
8. The tribunal then went on to consider rule 47 of the 2013 Rules. It decided that it was in the interests of justice to dismiss the claim and accordingly did so.
9. This order was made in the absence of both parties. Either party affected by this judgment may apply for reconsideration. This is dealt with in rule 70 of the 2013 Rules. A party must do so within 14 days of the date that this judgment was sent to the parties. The application must be in writing. If an application is made, it should include an explanation of when the claimant/respondent as the case may be first knew that they might not attend the hearing and why an application to postpone was not made prior to the commencement of the hearing. It should also set out full reasons for and provide full supporting evidence of the reasons for the non-attendance.

EMPLOYMENT JUDGE BEEVER

Date: 2 December 2022

Judgment sent to the Parties: 8 December 2022

FOR THE TRIBUNAL

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