



EMPLOYMENT TRIBUNALS

Claimant

Respondents

Mr M Abdullahi

v

(1) Munnelly Support Services Limited
(2) Guardior Security Limited
(3) Bishopsgate Contracting Solutions Limited
(4) Munnelly Security Services Limited

On: 21 November 2022

Heard at: Watford, by telephone

Before: Employment Judge Hyams, sitting alone

Appearances:

For the claimant: Not present or represented

For the respondents: Ms Joanne Frew, solicitor

JUDGMENT

The claimant's claims are dismissed.

REASONS

- 1 The claims with the above case numbers are among a number of claims made against several companies including at least the first respondent for unpaid wages and holiday pay. Those claims were made as multiple claims, and the sums sought by the individual claimants were not stated.
- 2 I had before 21 November 2022 conducted four preliminary hearings for case management purposes in relation to the multiple claims. Those hearings (using case number 3310921/2019 as the lead case for administrative purposes) took place on 13 December 2019, 22 June 2020, 10 August 2020 and 30 April 2021.

Case Numbers: 3310921/2019, 3322508/2019 and 3327431/2019

The cases of all but four claimants had by 21 November 2022 been compromised. The claimant whose cases have the numbers stated in the header to this document, Mr Abdullahi, is one of those four claimants. I refer to him below as “the claimant”. At the time when his claims were presented, he was represented by Thompsons Solicitors.

- 3 On 10 June 2022, the respondents’ solicitors sent the tribunal a letter in these terms about this claim and two others:

‘This is an application for the above claims to be struck out, pursuant to Rules 37(d) of the Rules of Procedure for failing to actively pursue the claim.

We request that, in accordance with Rule 30(3), the Tribunal deals with this application in writing without the need for a preliminary hearing.

Grounds in support of the Application

We refer to the correspondence from the Claimant’s former representatives, Thompsons Solicitors dated 19 June 2020, 19 March 2021 and 1 June 2021 (copies attached) confirming that they were no longer instructed to act on behalf of the three above named claimants.

Since Thompsons ceased to act for each of them, we have had no contact at all from any of these claimants and they have made no contact with the Tribunal. They have therefore failed to actively pursue their claim for over 12 months

We therefore respectfully submit that the Claimants no longer appear to wish to pursue their claims and request that the claims be struck out pursuant to Rule 37(d).

Objection

Any objections to this application must be sent to the Tribunal as soon as possible. Given the nature of this application, we submit that, “as soon as possible” should be read as being within the next 7 days.’

- 4 On 23 September 2022, the claimant was sent a notice of the hearing of 21 November 2022. He was informed that the hearing was to take place by telephone and that he should provide in advance a telephone number on which he could be called by the judge conducting the hearing, to enable him (the claimant) to attend the hearing. The hearing was for case management purposes and related to the cases of the four claimants whose claims had not been compromised. I conducted that hearing. The claimant had not responded to the notice of hearing and had not provided a telephone number on which he could be called. There was no such number in the tribunal’s files.

5 In the circumstances, rule 47 of the Employment Tribunals Rules of Procedure 2013 (“the 2013 Rules”) applied. That provides:

“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 In the above circumstances, I decided that the claimant’s claims should be dismissed.

7 I nevertheless record here that the claimant may have had a good reason for not attending the hearing of 21 November 2022 and not informing the tribunal why he was not going to do so (for example because for some good, i.e. acceptable, practical reason he was not able to do so). However, even if (1) he did have such a good reason and (2) he applies for a reconsideration of this judgment under rule 71 of the 2013 Rules, then he will, in order to have any reasonable prospect of that application succeeding, have to state (1) precisely what sums he is claiming by way of unpaid wages and holiday pay, and (2) the basis on which he says that he is entitled to those sums. That is because without that information, the issues in the case (in addition to the question whether or not the claimant was a worker within the meaning of section 230(3) of the Employment Rights Act 1996 and regulation 2(1) of the Working Time Regulations 1998, SI 1998/1833) cannot be clarified.

Employment Judge Hyams

Date: 24 November 2022

JUDGMENT SENT TO THE PARTIES ON

.....6 December 2022..

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FOR THE TRIBUNAL OFFICE