



EMPLOYMENT TRIBUNALS

Claimant

Mr D Needs

Respondent

NSL Limited

v

Heard at: Watford, by telephone

On: 21 November 2022

Before: Employment Judge Hyams, sitting alone

Appearances:

For the claimant:

Not present or represented

For the respondent:

Not present or represented

JUDGMENT

The claimant's claims are dismissed under rule 47 of the Employment Tribunals Rules of Procedure 2013.

REASONS

- 1 The claimant originally claimed unfair dismissal and disability discrimination. There was a preliminary hearing by telephone on 30 June 2022. It was conducted by Employment Judge ("EJ") Cowen. At that hearing, the claimant said that his claim of discrimination was of age discrimination and not disability discrimination. He was directed by EJ Cowen to provide by 29 July 2022 "further details of the claims he makes", and in her record of the hearing (which was sent to the parties on 3 July 2022) EJ Cowen stated the information which the claimant was required to give under the headings of "Age discrimination", "Disability Discrimination", and "Unfair Dismissal". In that document, EJ Cowen recorded that there was to be a further hearing by telephone on 21 November 2022 at 2.00 pm.

- 2 On 28 July 2022, Rickmansworth Citizens Advice Bureau sent an email to the tribunal, copying it to the respondent's solicitor. The email enclosed a document stating that the claimant was no longer pursuing claims of age and disability discrimination and stating in two paragraphs the details of the claimant's claim of unfair dismissal. A schedule of loss was also enclosed with the email, stating what the claimant was claiming by way of financial compensation for his claimed unfair dismissal.
- 3 On 19 August 2022 the respondent's solicitor wrote to the tribunal, acknowledging receipt of the email of 28 July 2022 and stating that the respondent's stated position on the claim of unfair dismissal (stated, that is, in the grounds of resistance document accompanying the ET3 claim form) did not need to be amended.
- 4 I conducted the hearing of 21 November 2022. I called (using the BT MeetMe conference call facility) the mobile telephone number given by the respondent's solicitor in her email of 19 August 2022 and the mobile telephone number stated on the claim form as the claimant's contact telephone number. Neither party responded to the invitation to join the hearing. I called both parties twice.
- 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 concluded that all of the claimant's claims should be dismissed under that rule. As far as the claims of discrimination contrary to the Equality Act 2010 were concerned, that was because the email of 28 July 2022 to which I refer in paragraph 2 above was not a withdrawal of the claims but it was clear from it that they were not being pursued. As for the remaining claim (of unfair dismissal), I concluded that it should be dismissed because it appeared that the claimant was not pressing it and because there appeared to me to be no good reason why he had not attended the hearing.
- 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). If he has such a good reason then he can apply for a reconsideration of this judgment under rule 71 of the 2013 Rules. If, however, the claimant's reason for not attending relates to his health then he will need to send to the tribunal some corroboratory evidence such as a letter from a treating medical practitioner stating that he was unable to attend the hearing. If ill-health was the reason for the claimant's failure to

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attend the hearing, then a failure to send such corroboratory evidence would mean that his application for reconsideration would be likely to have no reasonable prospect of success and would accordingly be liable to be refused by me.

Employment Judge Hyams

Date: 22 November 2022

JUDGMENT SENT TO THE PARTIES ON

15/12/20-22

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FOR THE TRIBUNAL OFFICE