



# EMPLOYMENT TRIBUNALS PRELIMINARY HEARING

Claimant

Respondent

v

Mrs L Fordham

Khloxon Ltd (1)

Emma Train (2)

**Heard: At Leeds by Telephone**

**On: 9 January 2023**

**Before: Employment Judge JM Wade**

**Appearance:**

**For the Claimant: Left the hearing**

**For the Respondent: Ms Watson, counsel**

## JUDGMENT

The claimant's discrimination claim is dismissed pursuant to Rule 47 upon the claimant's failure to attend or be represented throughout today's preliminary hearing. These proceedings are therefore at an end.

## REASONS

1 The claimant presented claims of unfair dismissal and "discrimination against me to be a single mum with 2 young children". The complaint relates to the claimant's dismissal when she was unable to work a weekend shift. She worked in the first respondent's "One Stop" store of which the second respondent was the manager at the time (June of 2022).

2 The unfair dismissal was dismissed for lack of two years' service. In preparation for today's preliminary hearing the respondent had emailed an agenda and bundle to the claimant on 6 January (and possibly earlier) but agreement of any directions for today had not happened.

3 The claimant dialled into the hearing today but her reception was very poor. I asked her if she could perhaps move to a place in the building with better reception but at that point she appears to have lost connection altogether.

4 I asked our clerk to telephone to invite the claimant to dial back in or provide whatever assistance was helpful. Our clerk's call went through to the claimant's voicemail and she left a message to that effect. Ms Watson and I waited until 2.30pm but there had been no attendance by the claimant by then.

5 The fact that the claimant did not attend after the initial loss of connection may reflect that something untoward has happened. I very much hope not. More likely is that she decided to abandon pursuit of her claim and is getting on with her life. Her work was for 12 hours a week or so, and she had secured a new job some six weeks or so from her dismissal, which was with a week's notice.

6 The allegations are made against an individual respondent and she too has this claim hanging over her from events in June last year. In all the circumstances, which include stewardship of the Tribunal's resources, and the costs and time and strain on the respondents, , I consider it is fair to dismiss this claim today.

7 The prejudice to the claimant in my decision is that she loses the opportunity to pursue a complaint of indirect sex discrimination – that is the complaint I can discern from the way she puts her case. The employer's requirement appears to be to work weekends; the relative disadvantage appears to be that more female employees are likely to be primary carers for their children than male employees; she says she was in this position, and that she was less able to work weekends than her male colleagues as a result. All of this would require setting out in evidence of course, but the complaint is just about arguable. There is no specific protection in the Equality Act for being a single parent with two small children (and indeed the claimant has said that the father does have care of the children at times, as does her father, their grandfather), but as indirect sex discrimination it is arguable. I would not therefore strike out the claim, if it was possible to make progress with it. It is a complaint with some difficulty, however. For instance, it may be that at the claimant's work place, male colleagues were equally as likely to be weekend carers for children, and just as unlikely to be able to draw on friends and family – we do not know, but these matters would come out at a hearing.

8 Sadly it was not possible to make progress because the claimant did not sustain attendance today. If something untoward has prevented attendance, there is the possibility of an application for reconsideration of this judgment. Any such application must set out reasons for not sustaining attendance today **and** how the claimant is going to put that right if the claim was re-instated and listed for a final hearing. More likely is that the claimant has decided, perhaps understandably, that her time is better spent in other ways and she can put the episode behind her.

JM Wade

Employment Judge JM Wade

Dated: 9 January 2023

JUDGMENT SENT TO THE PARTIES ON

Dated: 9 January 2023

FOR THE TRIBUNAL OFFICE