



EMPLOYMENT TRIBUNALS

Claimant: C (Anonymised due to anonymisation order)

Respondent: R (Anonymised due to anonymisation order)

Heard at: London South

On: 9 January 2023

Before: Employment Judge Kumar

Representation

Claimant: did not attend

Respondent: Mr A Line (counsel)

JUDGMENT

1. The claimant's claim for unfair dismissal is dismissed under rule 47 of the Employment Tribunal Rules of Procedure 2013.
2. The respondent's application for the claimant to pay its costs is adjourned and the claimant shall by 4pm on 27 January 2023 send to the tribunal and the respondent any written representations he wishes to make as to why the application for costs should not be granted and provide any documentary evidence of his ability to pay such an order.

REASONS

Claimant's non-attendance

3. Rule 47 of the Employment Tribunal Rules 2013 provides that '*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.*'
4. The hearing was listed for 5 days to determine liability on the claimant's complaint of unfair dismissal. The claimant failed to attend. No prior notice or explanation for non-attendance was received by the tribunal.

5. Attempts to contact the claimant were made by the tribunal, by telephone to the number on the claimant's ET1 (which the claimant had confirmed to be his number in an email sent on 12 December 2022 but which no longer appears to be a number in use), as well as by email to the claimant's email address which he has used to communicate with the tribunal previously. No response was received.
6. The hearing was listed to start at 10am. The tribunal delayed the start of the hearing until 12.30pm to enable the claimant to respond to the tribunal's attempts to make contact with him.
7. It was noted that the claimant had also, without notice or explanation, failed to attend a case management hearing that took place by CVP on 12 December 2022 and he had not complied with the directions made by Employment Judge Martin on that occasion. Mr Line informed the tribunal that the claimant had not responded to recent correspondence the respondent had sent to him.
8. None of the claimant's four witnesses attended to give evidence.
9. I was satisfied that that claimant had received proper notice of the hearing and the case management orders. It appeared that the claimant was not actively pursuing his claim and on the information I had available I was unable to determine the claimant's claim.
10. In the circumstances, in the exercise of my powers under Rule 47 I dismissed the claimant's claim.

Costs

11. The respondent made an application for the claimant to pay its costs. The tribunal was provided with a small bundle of documents in support of this application and I was informed that this had been sent by email to the claimant over the course of the morning. The bundle contained a cost schedule setting out that the respondent had incurred costs of £17,589.60 from 1 November 2022 to date. I considered it appropriate to adjourn the respondent's application to give the claimant an opportunity to make any representations he wishes to do so as to why an order for costs should not be granted and to provide evidence of his means.

Employment Judge **Kumar**

Dated: 9 January 2023