



# EMPLOYMENT TRIBUNALS

**Claimant**  
Ms E Asante

v

**Respondent**  
The Skin Collective Limited  
t/a Every Skin

Heard at: Central London Employment Tribunal      On: 17 January 2023  
Before: Employment Judge Norris, sitting alone (via CVP)

Representation:

Claimant – Did not attend/was not represented

Respondent – Ms B Healey and Ms A Sagnier, Owners

## JUDGMENT

1. The Respondent is ordered to pay to the Claimant a sum in respect of 1.5 days' accrued but untaken holiday from which tax and national insurance requires to be deducted, provided that the Respondent intimates any such deductions in writing to the Claimant and remits the sum deducted to Her Majesty's Revenue and Customs.
2. The Claimant is not actively pursuing her claim. Accordingly the remainder of her complaints are struck out pursuant to Rule 37(1)(d) (Schedule 1, Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013). The Hearing listed for 18-25 April 2023 is vacated (cancelled).

## REASONS

1. The Claimant worked for the Respondent between August 2021 and her dismissal in January 2022. She entered ACAS Early Conciliation during January and February 2022 and brought her claim on 25 March 2022. The Respondent lodged a response on 14 April 2022, denying the complaints.
2. A Preliminary Hearing (Case Management) ("PHCM") was scheduled for 14 June 2022. The Respondent attended but the Claimant did not. The PHCM was adjourned until 29 July 2022. On that occasion, both parties attended. Employment Judge Beyzade discussed the case. He entered judgment for the Claimant in respect of £48 notice pay and £62.72 in respect of wages outstanding for one day in January 2022. He listed the remaining complaints in the case, which were primarily in relation to race discrimination, for a Hearing for six days in April 2023. He made case management Orders by agreement with the parties.

3. The Claimant has not complied with those Orders. The Respondent has paid to her not only the sums owing for notice and wages but also for SSP that was owed. That leaves the Claimant's holiday pay and the claim of race discrimination to be dealt with. The Respondent has used the Government calculator for the former and accepts it owes the Claimant 1.5 days' pay in this regard. The Claimant had been ordered to say whether she agreed that total. I have entered judgment in that amount accordingly, because the Claimant has not disputed that it is correct.
4. This leaves the race discrimination claim. I reminded myself of the overriding objective. This requires the Tribunal to deal fairly and justly with claims. Where neither party is legally represented, the Tribunal does not expect them to be familiar with the law or the procedure and it is part of the Employment Judges' job to explain this to such parties. Proportionality is one of the factors in the overriding objective. The claim of race discrimination is a serious one and should not be dealt with lightly.
5. That said however, the Claimant has not actively pursued the claim for some months. She was ordered to send a schedule of loss to the Respondent and to the Tribunal by 9 September 2022. Documents, including from the Claimant as to remedy, were to be exchanged by 28 October. The Respondent was to prepare a file/bundle for the main Hearing by 12 December, having first agreed the contents with the Claimant no later than 28 November.
6. The Claimant has not done the things she was ordered to do. She continued not to produce the documents that had been ordered, despite saying on 29 November that she would do so by the following day. A hearing that had been listed for 1 December 2022 had to be postponed because of that, and the Respondent fairly pointed out that it could not prepare adequately because of the Claimant's default.
7. I have seen an email that the Claimant had sent the Tribunal on the afternoon of 27 October 2022. It starts by saying that the Claimant feels she would like to "drop the case". However, she goes on to mention mental health challenges and that she is finding the process confusing. She wants to move at a slower pace but also asks to have a call with the Tribunal. It appears that at this point, the Tribunal listed the 1 December hearing which as I have said above, the Claimant did not attend. The hearing was postponed until today, 17 January 2023.
8. The Respondent applied for the claim to be struck out. EJ Stout refused that application but directed an email was to be sent to the parties which made the position very clear. It said:

"...The Claimant's failure to comply with orders has been serious, but in view of the contents of her last email I am not prepared either to strike the claim out or make an unless order without a hearing. The hearing on 17 January will therefore go ahead as scheduled. It is very important that the Claimant attend that hearing if she wishes to pursue her claim. If she does not attend, her claim is likely to be struck out. If she does attend, it

will be a matter for the judge at the hearing to decide if and how the claim should proceed. The Claimant should be prepared to discuss with the judge why she has not complied with the orders to date. If the judge considers it appropriate to allow the claim to continue, the judge will be able to give guidance and make orders to assist both parties in preparing for the final hearing.”

9. The Claimant did not attend. The Respondent’s owners told me there had been no contact from her. There is no phone number given for the Claimant on the claim form so she could not be contacted by the Tribunal. However, the email was sent to her and she had not replied. There was no explanation for her non-attendance, in the face of EJ Stout’s indication of the need for her to come if she wanted to pursue the claim. There is also no explanation for why the Claimant has not complied with the orders to date. No guidance could be given or orders made to ensure that the claim would be trial ready for April.
10. I am mindful that the parties are required to co-operate with each other and with the Tribunal so as to further the overriding objective. The Claimant has not actively participated in the claim since the end of October. There is a difference between moving at a slower pace and stopping altogether. The Respondent appears to have attempted to meet the Orders that were made, but ultimately can do little if the Claimant neither withdraws the claim nor participates in preparation for the Hearing.
11. It leads to unnecessary expense being incurred by both the Tribunal and the Respondent if the Claimant is no longer pursuing the claim but does not say so. The dates that have been set aside for the full Hearing can be offered to other parties if they are not being used in this case. I considered on balance that the Claimant is not actively pursuing it, and in the circumstances, I concluded that it is in the interests of justice to strike out the claim on that basis. The parties do not need to take any further action (save for the Respondent paying the Claimant her holiday pay as set out above) and the Hearing from 18-25 April 2023 is cancelled and will not take place.

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Employment Judge Norris  
Date: 17 January 2023  
JUDGMENT SENT TO THE PARTIES ON

18/01/2023

FOR THE TRIBUNAL OFFICE