



# EMPLOYMENT TRIBUNALS PRELIMINARY HEARING

Claimant

Respondent

v

Mr K Hargeaves

Drive DeVilbiss Healthcare Limited

**Heard: At Leeds by Telephone**

**On: 28 November 2022**

**Before: Employment Judge JM Wade**

**Appearance:**

**For the Claimant: No attendance**

**For the Respondent: Mr T Wood, counsel**

## JUDGMENT

The claimant's claims are dismissed pursuant to Rule 47 upon the claimant's failure to attend or be represented at today's preliminary hearing.

## REASONS

1 The claimant presented a claim of constructive unfair dismissal, age discrimination and unpaid wages/bonus/holiday pay to this Tribunal on 24 August 2022. The respondent presented its response by the return date. There has been no contact on the file from the claimant since he presented his claim.

2 On a Rule 26 referral an Employment Judge extended the time for today's hearing. There were significant challenges with the details of the claim, in light of the response. Having read the claim and response in preparation for today's hearing I would have discussed with the claimant the details in the response and then made an assessment of whether the allegations (which were few) had little reasonable prospects of success. Without further particulars they are certainly in that category; with particulars (which the claimant knew were required from service of the response), the merits of the claim may have become reasonably arguable such that I would have listed a final hearing on some, if not all, matters.

3 Today Mr Wood attended by telephone on behalf of the respondent. The respondent had also provided an agenda which it had sought to agree with the claimant in advance. I was told today there had been no response to that contact from the claimant. The claimant has not applied for a postponement.

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4 I asked our clerk today to make enquiries of the claimant, but her call went through to his voicemail. The fact that the claimant did not attend may reflect that something untoward has happened to him. I very much hope not. More likely is that he has abandoned his claim, with the challenges it faces, and is getting on with his life, because that is the overarching impression on the file (not least he resigned giving notice and immediately started a new job).

5 In all the circumstances, which include stewardship of the Tribunal's resources, and the costs and time of the parties, I consider it is fair to dismiss his claim 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 failure to attend today and must provide evidence of those reasons.

JM Wade

Employment Judge JM Wade

Dated: 28 November 2022

JUDGMENT SENT TO THE PARTIES ON

Dated:

FOR THE TRIBUNAL OFFICE

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