



EMPLOYMENT TRIBUNALS

Claimant: Miss Anita Thompson

Respondent: Change Hospitality Hub Ltd

Heard at: London South, in public, by CVP

On: 18 January 2023

Before: Employment Judge Tsamados (sitting alone)

Representation

Claimant: Did not attend and was not represented

Respondent: Did not attend and was not represented

JUDGMENT

The Claimant's claim is dismissed.

REASONS

Today's hearing

1. The hearing was scheduled to start at 10 am this morning by CVP. By this time neither party had attended either in person or through representatives.
2. I asked my clerk to telephone the parties and ask them why they were not here, explain that I was going to go ahead with the hearing in their absence unless they provided compelling reasons for me not to do so and to put their responses in writing.
3. My clerk reported back that the telephone number provided by the respondent was unobtainable but she had been able to speak to the claimant.
4. The claimant told my clerk that she was at work and unable to attend the hearing of which she was unaware. My clerk asked if she had not received our emails regarding the hearing and the claimant responded that she had not monitored her email account recently. The claimant subsequently emailed the Tribunal at 10:11 am giving her apologies, stating that the hearing had slipped her mind and due to work commitments she is unable to attend today. She also stated that she had not seen the details sent to her

via email this week.

Background

5. The claimant presented a claim to the Tribunal on 23 May 2022 in which she made complaints of unfair dismissal and entitlement to holiday pay. Whilst the details of the claim referred to other matters it provided no supporting information regarding either of these complaints.
6. A notice of claim was sent to the parties on 28 June 2022. The claimant was also sent a letter on that date advising that she had insufficient length of service with the respondent to bring a complaint of unfair dismissal. She was given until 12 July 2022 to provide reasons in writing why that complaint should not be struck out.
7. The respondent presented its response on 14 July 2022 denying the claim. However, this contained no coherent reasons for its denial.
8. Notice of a full hearing to take place on 27 October 2022 and with case management orders were sent to the parties on 12 July 2022 .
9. The claimant did not respond to the strike out warning letter and neither party complied with any of the case management orders.
10. On 10 October 2022, the claimant's complaint of unfair dismissal was struck out and judgment sent to the parties recording this on 11 October 2022.
11. The full hearing was due to be conducted by Employment Judge ("EJ") Chapman KC. However, only the claimant attended and given the lack of preparation, he converted the hearing to a case management discussion, rescheduled the full hearing for today's date and made a number of case management orders in order to fully prepare the case in advance of that hearing. EJ Chapman KC also identified the remaining claim as one of unauthorised deductions from wages in respect of accrued but untaken entitlement to holiday pay and set out the issues to be determined at the full hearing.
12. The claimant was present at that hearing and she was advised, among other things, of the date and time of today's hearing and also of the various case management orders and the dates for compliance.
13. EJ Chapman KC's Order which among other things records today's hearing date and time and the case management orders was sent to the parties by email on 28 October 2022.
14. On 7 December 2022, the Tribunal sent a letter by email to the parties asking them to indicate by 21 December 2022 whether they still required a hearing and whether they were ready to proceed with it. The letter stated that a failure to respond by the above date may result in the claim or response being struck out for non-pursuit.
15. On 17 January 2023, the Tribunal sent an email to the parties containing the

CVP login details for today's hearing.

16. We have received no response from either party as to compliance with the case management orders set at the hearing on 27 October 2022 or the letter of 7 December 2022.

My decision

17. I considered rule 47 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013. This deals with non-attendance at a hearing and states as follows:

"If a party fails to attend or 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 enquiries that may be practicable, about the reasons for the party's absence."

18. I also considered my powers under rule 37 of the 2013 Regulations which gives me the discretion to strike out all or part of a claim on the basis that it has not been actively pursued.
19. In the circumstances, I do not accept that the claimant was unaware of today's hearing date or the case management orders that she was required to comply with. Having provided us with an email address for correspondence it is her obligation to monitor that address and to deal with correspondence from the Tribunal promptly and on the dates required. I do not accept that it is an adequate explanation that the hearing date slipped her mind as she has said.
20. Whilst the respondent has also not complied with any elements of the case management orders applying to it, it is the claimant's case and she has provided no details of what she is claiming or any evidence in support. This was the exact purpose of the case management orders which she did not comply with. Moreover, the respondent even if it attended would have been unaware of what the claimant is seeking or the basis for it.
21. The claimant has had two opportunities to set out her case and has failed to do so.
22. Taking into account the above information available to me and enquiries that it was practicable to make as to the reasons for the claimant's absence, I have decided to dismiss the claim on the basis of her lack of attendance and failure to comply with any of the case management orders.
23. I have also taken into account the power available to me under rule 37 and I find that the claimant has not actively pursued her claim.
24. In any event, in her absence, on the basis of the information before me as to what she is seeking and why and given that she has the burden of proof, I

would have dismissed her claim the basis that it is unfounded.

Employment Judge Tsamados
18 January 2023

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