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EMPLOYMENT TRIBUNALS

Claimant: Miss Danielle Landy
Respondent: SO Criss House of Nails Ltd
Heard at: East London Hearing Centre
On: 2 February 2023
Before: Employment Judge Hook

Representation

Claimant: Did not attend and was not represented
Respondent: Did not attend and was not represented

JUDGMENT

1. **The claimant's claim is struck out under Employment Tribunal Rules, Rule 37.**

REASONS

- 1 The hearing was listed at 2pm today by telephone hearing. According to the Tribunal file, notice of this hearing was sent to both parties on 15 October 2022.
- 2 At 2pm neither party had joined the telephone hearing. Tribunal staff sought to make contact with the parties by telephone. The phone number on file for the claimant was called twice. On both occasions it went straight to voicemail. The phone number on file for the respondent rang but was not answered.
- 3 This follows a previous occurrence of non-attendance by both parties. The case was listed before Employment Judge Yale on 30 August 2022 for a telephone hearing. Neither party attended that telephone hearing and multiple calls to both parties were unanswered.

- 4 Employment Judge Yale made a number of orders. He ordered that the claimant must provide a schedule of loss within 14 days and, also within 14 days, both parties must write to the Tribunal explaining their non-attendance at the telephone hearing on 30 August 2022 and why they were uncontactable.
- 5 The Tribunal has received no contact from either party in response to Employment Judge Yale's orders.
- 6 The Tribunal bears in mind that the Employment Tribunal Rules provide in Rule 2 that, "parties... shall assist the Tribunal to further the overriding objective and in particular shall co-operate generally with each other and with the Tribunal." The overriding objective is to deal with cases fairly and justly. It is clear that both parties are failing in their duty to assist the Tribunal by failing to attend hearings or, if contact details have changed and the notice of the hearing has not reached them, to keep the Tribunal informed of up-to-date contact details or to pro-actively contact the Tribunal themselves about their case.
- 7 The respondent has never provided a response to the claim. The claimant has served a claim (in which she says that she has not been paid the correct amount in wages by the respondent) but has subsequently failed to attend or comply with case management orders.
- 8 If the claimant had attended the telephone hearing today the Tribunal would have asked her to give evidence including to explain the amount of unpaid wages she says she is owed and how she calculates that figure. In her absence, the Tribunal cannot assess the quality of her evidence or determine whether or not her claim is well founded. The claimant brings the claim and has the legal burden to prove her case, a burden which she plainly cannot discharge if she does not attend.
- 9 In all the circumstance the Tribunal finds that there has been repeated non-compliance with the Employment Tribunal Rules and orders of the Tribunal by both parties. The Tribunal also finds that the claim is not being actively pursued.
- 10 There is no basis to find that adjourning this case to a third hearing is likely to be constructive. Further adjournment would expend public resources and Tribunal time that can be used for other cases.
- 11 The case management orders made by Employment Judge Yale after the hearing on 30 August 2022 included a warning that non-compliance with orders may result in the claim being struck out. In addition, the hearing notice for today's hearing warned the parties that case management orders must be complied with. The Tribunal is satisfied that the claimant has had reasonable opportunity to make representations about this matter.

- 12 The Tribunal orders the claim to be struck out in its entirety on grounds of non-compliance with the Rules and orders of the Tribunal and because the claim is not being actively pursued, in accordance with Rule 37.

Employment Judge Hook

1 February 2023