



EMPLOYMENT TRIBUNALS

Claimant: Miss S Gittens
Respondent: Sophia Wright/Cuba Gooden
Heard at: Birmingham Employment Tribunal via CVP
On: 9 February 2023
Before: Employment Judge Noons

Representation:

Claimant: - Did not attend
Respondent: - Did not attend

JUDGMENT

It is the Judgment of the Tribunal that:

1. The Claimant's Claim is struck out.

REASONS

The issues

1. This case was listed for a public preliminary hearing for the claimant to show cause as to why the claim should not be struck out.

The Facts

2. The claimant has provided to the Tribunal a copy of an ACAS Early Conciliation certificate reference number R568894/19/02. This lists the prospective respondent as The Crib, TwoTwos Publishing Ltd.
3. The claimant submitted a claim form which was received by the Tribunal on 9 September 2019. In box 2.1 of her ET1 form the claimant names Sophia Wright/ Cuba Gooden as the respondents. Her claim is one for arrears of

pay.

4. She sets out in box 8.2 that Sophia Wright and Cuba Gooden were her employers. The ACAS EC certification number that the claimant relies upon in relation to her claim is R568894/19/02. As set out above this certificate does not list Sophie Wright or Cuba Gooden as prospective respondents.
5. The case was originally listed for hearing on 21 January 2020 but this was postponed by Employment Judge Cramp on 11 January 2020. A letter was sent to the claimant as follows:
 - 5.1 “In the claim form, you put that the respondents were Sophia Wright/ Cuba Gooden. However, your early conciliation certificate named The Crib and Twotwos Publishing limited. I assume the correct respondent - your former employer - is the company TwoTwos Publishing limited, the registered office of which is Studio 15, Gibb Street, Birmingham, B9 4AA. Please confirm that this is correct and that the claim papers should be sent to that company at that address.
 - 5.2 Also, for your information, a search on companies house online reveals that there is a proposal to strike that company off the companies register. We cannot advise you, but you should be aware that if a company is struck off, any tribunal claim cannot continue until the claimant applies successfully to have the company restored to the register. The employment tribunal has no power over the companies register. Please respond within 10 days.
6. The claimant sent an email on 19 January 2020 confirming the respondents were Sophia Wright and Cuba Gooden. This email did not confirm that she was employed personally by these two individuals. Unfortunately this email was not put on the file and the Tribunal thought she had not responded.
7. Therefore, a further letter was sent to the claimant on the 6 September 2021 stating as follows “I am directed by Employment Judge Battisby to ask the claimant to reply to this letter by stating whom the correct respondent is. If there is no reply, the employment tribunal will have to consider striking out the claim for lack of cooperation and failure to actively pursue the claim. Please reply by 13 September 2021”.
8. The claimant replied by way of e-mail dated 13 September 2021 confirming that the correct respondent was Sophia Wright business owner of The Crib.
9. The claimant was sent a further letter dated 19 January 2022 which said as follows: “Employment Judge Meichen has directed the following: the company TwoTwos Publishing limited has been dissolved. However, your letter of 13 September 2021 says you want to claim against Sophia Wright. Please can you clarify saying you are personally employed by her and not the company? Do you have an ACAS certificate against Sophia Wright? Please reply by 26 January 2022.
10. The claimant did not comply with the Order of 19 January 2022. In compliance with Rule 37 of the Employment Tribunal Rules of Procedure 2013, a strikeout warning was sent to her on the 18th of July 2022. This

indicated the tribunal was considering striking out the claim because “you have not complied with the order of the tribunal dated 19 January 2022 and it has not been actively pursued”. The claimant was given until 1 August 2022 to respond.

11. The claimant responded by way of email dated 18 July 2022 enclosing her correspondence of 19 January and 26 April 2020. She did not enclose a copy of any ACAS Early Conciliation Certificate which listed Sophia Wright and Cuba Gooden as prospective respondents. She also did not confirm she was employed personally by Sophia Wright. It was therefore not compliant with the Order of 19 January 2022.
12. A letter dated 5th August 2022 was sent to the claimant restating the order of 19 January 2022 in that she was asked to confirm that she was employed personally by Sophia Wright and Cuba Gooden and to provide an ACAS certificate for both of them. This letter was returned to the tribunal and it was re sent via e-mail on the 17th of August 2022. This letter gave the claimant until the 24th of August 2022 to respond.
13. The claimant responded by way of e-mail dated 21st August 2022 confirming she was personally employed by Sophia Wright and Cuba Gooden and she also attached a copy of the ACAS early conciliation certificates that she relied upon for the claim. This was ACAS conciliation certificate number R568894/19/02 which lists The Crib TwoTwos Publishing limited as the perspective respondent. The claimant to date has not provided a copy of an ACAS conciliation certificate in relation to either Sophia Wright or Cuba Gooden.
14. A further letter was sent to the claimant via email on 26 August 2022 explaining that no ACAS conciliation certificate had been received in relation to Sofia Wright or Cuba Gooden and asking again whether she had a copy of a certificate in relation to those two individuals. The claimant confirmed by email of the same date that she did not have an ACAS certificate naming Sophia Wright or Cuba Gooden as the prospective respondents.
15. The Tribunal wrote to the claimant by way of letter dated 5th of September 2022 (sent via email) saying as follows:
 - 15.1 “The name you have provided for the respondent to your claim appears to be only the name of a person, but your claim form also suggests there was a company involved. The wrong name may make it difficult for any decision of the tribunal to be enforced.
 - 15.2 You should provide the full and correct name of your former employer. If it is a company it will usually end with ltd or plc the full name can usually be found on the contract of employment, statement of terms and conditions (if you have one) or on other documents, such as a letterhead, invoice or pay slip. Please provide copies of any of the above documents as proof to the tribunal. Please reply in writing within 14 days of this letter.
16. The claimant has not responded to this letter.

17. On 26 September 2022 notice of a preliminary hearing was sent to the claimant this notification set out that “the claimant is to show cause why the claim should not be struck out of the tribunal is seeking to establish by whom the claimant was employed”. Nothing has been received from the claimant in response to this notification of hearing nor did she respond to the email of 30 January 2023 which enclosed the CVP details nor the 3 February 2023 email confirming the hearing date and again asking for documents.
18. The claimant did not attend the hearing today. The Tribunal clerk phoned the claimants mobile number at 10.10am but that went straight through to voicemail. The Employment Judge and clerk remained in CVP hearing room between 10:00 AM and 10:30 but the claimant did not attend nor did she contact the tribunal.
19. TwoTwos Publishing Ltd was dissolved 17 November 2020.

Relevant Law

20. Rule 10 of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 provides:

“10(1) the Tribunal shall reject a claim if –
10(1)(c)(ii) an early conciliation number”.

21. Rule 37 of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 provides:

“37(1) At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds –

(c) for non-compliance with any of these rules or with an order of the tribunal;

(d) that it is not actively pursued;

37(2) A claim or response may not be struck out unless the party in question has been given a reasonable opportunity to make representations, either in writing or, if requested by the party at a hearing”.

Application of the Law to the facts

22. The claimant failed to provide all the information ordered in the Tribunal’s letter of 11 January 2020. She failed to respond at all to the letter dated 19 January 2022. She failed to give all details ordered in the letter dated 18 July 2022 and has not responded to the Tribunal’s order of 5 September 2022. She has also failed to attend today’s hearing and has not contacted the Tribunal to give any explanation of her non-attendance.

23. For those reasons I conclude that the claimant has not complied with multiple Tribunal Orders and has failed to actively pursue her claim.

Therefore, her claim is Struck Out in accordance with Rule 37.

24. The claimant has provided no evidence that confirms she was employed by the respondents other than an email asserting she is. In the lack of any evidence the Tribunal has not be able to determine whether in fact the claimant was employed by Sophia Wright and Cuba Gooden personally.
25. I also note that the claimant has not provided a copy of an ACAS certificate in relation to Sophia Wright or Cuba Gooden and in fact has confirmed via email that she does not have one. It appears therefore that in any event her claim is not compliant with Rule 10 in that it does not contain an early conciliation number for the respondents.

Employment **Judge Noons**
Date_9 February 2023