



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4104915/2020

Held in Glasgow on 27 February 2023

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Employment Judge F Eccles

Mr M Hall

**Claimant
Not present.
Not represented.**

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Michael Basi t/a Professional Gardening Services

**Respondent
Represented by:
Ms K Dingwall –
Solicitor**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Employment Tribunal, having considered the information available to it and having made enquiries as to the reasons for the claimant's absence, is to dismiss the claim under Rule 47 of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013.

REASONS

1. The claim was presented on 18 September 2020. The final hearing held on 9 and 10 August 2022 was continued to hear evidence about when a recording on the claimant's telephone and on which he relies was made. The claim was listed for a continued final hearing to take place on 27 February 2023. At the final hearing there was no appearance by the claimant. He was not represented. The respondent was in attendance with his solicitor, Ms K Dingwall. Enquiries were made by the clerk to the Tribunal about the reasons for the claimant's absence.

2. The claimant informed the clerk to the Tribunal that he had not received notice of today's hearing. The claimant explained that he was still in the process of identifying alternative representation. The claimant informed the clerk to the Tribunal that he had not received a response from the Tribunal to outstanding emails. The claimant informed the clerk to the Tribunal that he felt unwell and that his car was in the garage.
3. I am satisfied, having checked the Tribunal's records, that the claimant was sent notice of today's hearing. It was sent to the email address provided by the claimant to the Tribunal. The claimant's representative withdrew from acting on his behalf on 4 January 2023. I am satisfied that the claimant has had sufficient time to identify and instruct another representative. There is no record of any outstanding emails from the claimant to which the Tribunal has not responded.
4. The respondent informs me that, notwithstanding his undertaking to do so, the claimant has failed to provide an expert with his telephone for the purposes of determining when the recording he relies on was made.
5. In the absence of the claimant and having considered the available information about the reasons for his absence, I concluded that it is appropriate and in accordance with the overriding objective to dismiss the claim. In reaching my decision I have taken into account that the claimant informed the clerk to the Tribunal that he felt unwell and had transport issues. I was not persuaded that these factors outweigh the other factors in reaching a decision about whether or not to dismiss the claim in the claimant's absence.
6. It is open to the claimant to seek reconsideration of the Tribunal's decision under Rules 70 to 72 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

7. The respondent sought strike out of the claim at today's hearing. I considered that, in all the circumstances, it is appropriate to refuse the above application and to dismiss the claim in the absence of the claimant under Rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

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Employment Judge: F Eccles
Date of Judgment: 27 February 2023
Entered in register: 10 March 2023
and copied to parties

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