



EMPLOYMENT TRIBUNALS

Claimant: Miss D Anderson

Respondent: The Teesdale Café & Restaurant

Heard at: Newcastle Civil & Family Courts & Tribunal, Barras Bridge, Newcastle upon Tyne NE1 8QF via CVP

On: 6th April 2023

Before: Employment Judge AEPitt

Representation

Claimant: Did not attend

Respondent: Andrew Hooper, Owner

JUDGMENT

1. The claimant's claim for redundancy payment is dismissed

REASONS

2. The claimant presented an ET1 on 2nd February 2023. She made claims for a Redundancy Payment, Notice Pay and Holiday Pay .
3. On 6th February the ET1 was sent to the respondent. On the same day both parties were notified of a hearing date of 6th April 2023 via Video.
4. On 20th March 2023 2023 by Order of Employment Judge Sweeney the claimant was notified she was out of time for presenting her claims for Notice Pay and Holiday. She was ordered to inform the Tribunal by 27th March if she wished to argue for an extension of the time limit. She was told the consequence of failing to reply would be that her claims for Notice and Holiday Pay would be struck out. The Notice made it clear that the hearing for 6th April would consider the claimant's redundancy payment claim.
5. On 14th March 2023 an ET3 was received from Mr Andrew Hooper who confirmed he owned the business, and the trading name was The Teesdale Café & Restaurant.

6. No further contact was made by the claimant to the Tribunal.
7. At the hearing today the claimant did not log in. I asked for contact to be made with her. She informed the Clerk she thought the case had been dealt with and she was on holiday but she would attempt to log in. I considered it appropriate to allow some time for that to occur. I asked the clerk to make contact again and inform the claimant to log in by 10:30 or I would start the hearing. The claimant did not log in or make any contact with the Tribunal.
8. At the commencement of the hearing, I explained the position to Mr Hooper, who generously said perhaps we should adjourn to give the claimant an opportunity to be present. I considered Rule 42 Employment Tribunals (Rules of Procedure) Regulations 2013 and the overriding objective. In light of the failure of the claimant to contact the Tribunal at all since she had presented her ET1; the fact she thought her case dismissed; the fact she was on holiday, I did not agree and against the background set out above I considered it in accordance with the overriding objective to hear the case without the claimant.
9. Mr Hooper was affirmed and confirmed he was the owner of the Respondent company. He accepted that the claimant had been employed since 2014. She had resigned early July 2022 as she had another job to go to, possibly in a local public house. The claimant worked her notice.
10. As a result of a downturn in business Mr Hooper decided the café was no longer viable so closed for business on 7th August 2022.
11. I concluded that the claimant was not dismissed rather she had resigned and therefore was not entitled to a redundancy payment.
12. The claim is therefore dismissed.

Employment Judge AE Pitt

Date 6th April 2023