



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4101107/2023

Held in Glasgow on 2 May 2023

Employment Judge M Brewer

Ms A Murray

**Claimant
No attendance**

Minster Care Group Limited

**Respondent
Represented by
Mr T Muirhead,
Consultant**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The claim is struck out

REASONS

Introduction

1. This case was listed to be heard over 3 days commencing on 2 May 2023.
2. The claimant had failed to comply with any of the Orders of the Tribunal sent to the parties on 23 February 2023.

Chronology

3. The claim was presented on 24 January 2023. The respondent filed its response on 20 February 2023.
4. Case management orders were made and sent to the parties on 23 February 2023.
5. Notice of hearing was sent to the parties on 24 February 2023.
6. On 24 February 2023 the respondent applied for the claim to be struck out as it had no reasonable prospect of success or alternatively that the claimant be required to pay a deposit as the claim had little reasonable prospect of success. That application was refused on 27 March 2023.

Strike out warning

7. By a letter dated 5 April 2023 the Tribunal gave the claimant an opportunity to make representations or to request a hearing, as to why the claim should not be struck out because it has not been actively pursued in terms of Rule 37(1)(d) of the Rules contained in Schedule 1 of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013.
8. The claimant failed to make any representations as to why the claim should not be struck out. The claimant did seek a postponement of the final hearing but that application was refused on 13 April 2023.
9. On 21 April 2023 the respondent renewed its strike out application, this time on the basis that the claimant was not actively pursuing the claim as she had failed to comply with any of the Tribunal's case management orders.
10. The claimant was asked for her comments on the respondent's application by no later than 24 April 2023. Subsequently that deadline was extended to 24 April 2023. She did not respond to the request for comments on the application.

11. On 27 April 2023 the parties were advised that the issue of strike out would be dealt with at the hearing due to commence on 2 May 2023.

Hearing on 2 May 2023

12. The respondent attended the hearing on 2 May 2023. Mr Muirhead attended as the representative, and he brought 3 witnesses with him.

13. By 10.00 am the claimant had not arrived. I asked my clerk to telephone the claimant on the mobile number she had included on her claim form to see whether she intended to appear. His call went through to voicemail.

14. By 10.15 am the claimant made no contact with the Tribunal.

15. Mr Muirhead made brief submissions and applied for the claim to be struck out under Rule 47 of the 2013 Rules (failure to attend the hearing).

Decision

16. It seemed to me clear that having commenced litigation against the respondent the claimant subsequently did nothing to further that litigation. Her only contact with the Tribunal was to seek, rather late in the day, a postponement. She made no contact with the respondent, failed to answer their telephone calls to her, she failed to comply with any of the Tribunal's Orders and without any reason failed to attend the hearing.

17. For those reasons I determined that the claim should be struck out under Rule 37(1)(d) and/or Rule 47 of the 2013 Rules.

Employment Judge: M Brewer
Date of Judgment: 02 May 2023
Entered in register: 03 May 2023
and copied to parties

