



EMPLOYMENT TRIBUNALS

Claimant: Mr G Copland

Respondent: Avensis Support Limited

RECORD OF A PRELIMINARY HEARING

Heard at: Manchester Employment Tribunal (in public; in person)

On: 12 May 2023

Before: Employment Judge Mark Butler

Appearances

For the claimant: Did not attend

For the respondent: Mr Lunat (Solicitor)

JUDGMENT AT PUBLIC PRELIMINARY HEARING

1. The claims are dismissed pursuant to Rule 47 of the Employment Tribunal Rules of Procedure 2013 for a failure by the claimant to attend this hearing.

REASONS

2. This case was initially listed for a Preliminary Case Management Hearing on 24 October 2022. This hearing was postponed by Employment Judge Leach by letter dated 31 August 2022. This was after Employment Judge Leach had considered an application to strike out the claim made by the respondent and deciding that the hearing should be converted to a one-day public preliminary hearing to determine that application, amongst other things. There was no room

in the tribunal list to accommodate a 1-day hearing on 24 October 2022, and therefore it was re-listed to be heard today (on 12 May 2023).

3. Today's hearing was listed to consider 3 matters, as reiterated by Employment Judge Batten on 05 May 2023:
 - 3.1 Clarification of the claimant's claims, including whether he pursues a claim of dismissal for whistleblowing, for which the 2 years' service does not apply, or ordinary unfair dismissal;
 - 3.2 The claimant's application to amend his claim; and
 - 3.3 The respondent's application for strike out.
4. The claimant was not in attendance at the hearing today for a 10am start, as directed.
5. The judge's clerk was asked to call the claimant on the number that the tribunal had on file for the claimant, as well as to send an email to the claimant at the email address that the tribunal had on file for him. The substance of that communication was to inform the claimant that he had a tribunal hearing this morning and to enquire of whether he intended to attend or not. This communication was also used to inform the claimant that the judge had decided to delay the start of the hearing until 10.30am, at which time the judge will decide how to proceed with this hearing.
6. The claimant replied to the tribunal's email at 10.18am. In that email he explained that:

"I got a job and I'm not willing to lose it because I'm a whistleblower."
7. The claimant's email of 10.18am appeared to imply that the claimant was no longer pursuing his case, on the basis of having gotten another job and not wanting to be labelled a whistleblower through pursuing this case. Although it was not entirely clear.
8. The judge asked his clerk to send the claimant a further email, expressing the following:

"It is unclear whether this email is the claimant withdrawing his claim before the employment tribunal, although that does appear to be the case.

If the claimant is withdrawing his claim, can he write back to the tribunal urgently to confirm that he is now withdrawing his claim in its entirety. If he can make it specific, if that is his intention, then the judge will dismiss his claim on withdrawal."
9. The claimant replied to this email at 11.02am. He merely stated: "Please just tell the judge to look over everything i have sent them".
10. There has been no further correspondence with the claimant by the tribunal in this matter.

11. I have considered the documents that are contained on the tribunal file in respect of this case. Particularly, I note that in the claimant's email of 28 February 2023 states the following:

“...To make it clear I would not even want to settle and I'm not going further with tribunal...”
12. Consideration was first given as to whether to postpone today's hearing, pursuant to Rule 29 of the Employment Tribunal's Rules of Procedure. The claimant has not sought a postponement nor presented any good reason that would warrant a postponement. In those circumstances I decided against postponing today's hearing.
13. Having given thought to the email correspondence between the tribunal and the claimant this morning, having considered all the documents available to me on this case, including the claimant's email of 28 February 2023, and having applied the overriding objective, I have decided to dismiss the claimant's case for failing to attend pursuant to Rule 47 of the Employment Tribunal Rules of Procedure 2013.
14. The claimant has made a conscious decision not to attend today, in circumstances where his attendance was necessary. He has provided no reason as to why he is not attending. He was fully aware of this hearing. And he was aware that the respondent would be in attendance.
15. It is in these circumstances that I dismiss this claim under Rule 47 of the Employment Tribunal Rules of Procedure 2013 for a failure by the claimant to attend this hearing.
16. The issue of costs was discussed with the representative of the respondent. It was explained that it would be unfair on the claimant to hear such an application in the claimant's absence. And that Rule 77 of the Employment Tribunal Rules of Procedure 2013 would require the claimant to be given a reasonable opportunity to make representations in response to any such application. If the respondent is pursuing costs, then they will make it in writing in accordance with Rule 77.

Employment Judge Butler

12 May 2023

Sent to the parties on:

22 May 2023

For the Tribunal Office: