



EMPLOYMENT TRIBUNALS

Claimant: Miss T Jabeen

Respondent: CM Community Care Services Ltd

Heard at: Midlands West **On:** 20 June 2023

Before: Employment Judge Hussain

Representation

Claimant: Absent, not represented

Respondent: Present, not represented

JUDGMENT

The claimant's claim is dismissed pursuant to Rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

REASONS

1. The matter was listed for a final hearing at 11:30 on 20 June 2023 to determine the claimant's claim for holiday pay.
2. The claimant did not attend the hearing. The respondent attended and was not represented.
3. Rule 47 of the Employment Tribunals Rules 2013 provides that "If a party fails to attend or to be represented at the hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it shall consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence." I noted that the powers under the Rules must be exercised in accordance with the overriding objective in Rule 2, which is to deal with a case fairly and justly.

4. A notice of hearing was sent to the parties on 10 November 2022 and reminder sent on 13 June 2023. Joining instructions were sent on 19 June 2023 and again this morning. The clerk made 2 attempts to contact the claimant by telephone after the hearing had commenced and the calls were diverted to voicemail.
5. In accordance with Rule 47, I am satisfied that practicable enquiry had been made about the reasons for the claimant's absence. No information was available to me explaining the reasons for the claimant's absence. Under Rule 47 I have the option to dismiss the claim or proceed with the hearing in the absence of that party.
6. The claimant has the burden of proving her loss. She needs to show what payment she was entitled to. A case management order dated 10 November 2022 directed the claimant to serve a schedule of loss and statements in support of her claim. A reminder was issued on 08 June 2023, however, she did not respond and has not attended this hearing. The claim, as detailed in the claim form, does not specify the dates of the holiday for which she says she did not receive payment and she has not quantified her loss.
7. I conclude that the appropriate course is to dismiss the claim as I have insufficient evidence on which I can determine the claim in the claimant's absence. I have considered the overriding objective in Rule 2 in reaching this conclusion.

Employment Judge Hussain

Date: 20 June 2023