



# EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr K Ulsan

v

Sapphire DNP Limited

Heard at: Watford, (By CVP)

On: 20 September 2023

Before: Employment Judge Bansal, sitting alone

## Representation:

Claimant: No attendance

Respondent: Mr A Stevens, Operations Director

## PRELIMINARY HEARING JUDGMENT

**The Claimant's claim is dismissed under Rule 47 of the Employment Tribunals Rules of Procedure 2013**

## REASONS

- 1 This is a record of the Public Preliminary Hearing held today.
- 2 This hearing was listed by Employment Judge Mason at a Case Management Hearing held by CVP on 15 August 2023, at which the claimant was in attendance. At this hearing, EJ Mason decided that a Public Preliminary Hearing was necessary to determine whether the claim was presented in time and, if not, whether it was reasonably practicable to do so and whether it was presented within such further period as the tribunal considers reasonable.
- 3 In the Case Summary of his Order, EJ Mason, recorded that the claimant was currently in Turkey and that he confirmed he would be prepared to travel back to the UK to attend today's hearing.

- 4 In preparation for this hearing, EJ Mason gave case management directions to the parties namely, the claimant to serve his witness statement by 6 September 2023, and the respondent to prepare and file a joint bundle of documents by 31 August 2023.
- 5 In readiness for today's hearing, I ascertained since the last hearing on 15 August 2023, the claimant has not served a witness statement, and neither has the respondent prepared and sent a copy of a bundle for this hearing.
- 6 I commenced the hearing at 10.00am. Mr A Stevens, Operations Director was in attendance. The claimant has not attended and neither has he contacted the tribunal to explain his non-attendance. My clerk informed me the Claim Form (ET1) does not have a telephone contact number, and neither has the claimant notified the tribunal of a telephone contact number for him. The tribunal has therefore been unable to contact him by telephone today. Also, an email was sent to the claimant yesterday, asking him to send to the tribunal any documentation for this hearing, to which he has not replied.
- 7 In discussion Mr Stevens, explained he also did not have a contact number for the claimant and since the last hearing he has had no contact or any communication with claimant. Mr Stevens confirmed that at the last hearing before EJ Mason, today's hearing date was agreed with the claimant, and he confirmed even though he was residing in Turkey, he would return to the UK for this hearing. I am satisfied the claimant has had sufficient notice of today's hearing.
- 8 I have given consideration to whether I should adjourn the hearing, dismiss the claim or proceed in the claimant's absence in accordance with rule 47 of the Employment Tribunals Rules of Procedure 2013. In doing so, I have regard to the overriding objective.
- 9 I do not consider it is appropriate or just to adjourn this hearing. The claimant has had due notice, and should be in attendance. He has provided no explanation for his non-attendance. The respondent is entitled to a finality of this claim without further delay, and should not be put to unnecessary further expense. Further, if the hearing is adjourned there is no guarantee the claimant will attend at the next hearing.
- 10 I have decided to dismiss the claim rather than proceed in his absence for the following reasons. Given that the Claim form (ET1) has been presented outside the statutory time limit, the burden of proof is on the claimant to show that it was

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not reasonably practicable to present the claim in time. Accordingly I need to hear his oral evidence on this point, and then decide whether time should be extended to allow the claim to proceed. I am unable to make this determination in the absence of the claimant's oral evidence or any written statement or representations.

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**Employment Judge Bansal**  
**Date: 20 September 2023**

Sent to the parties on:

14/11/2023.

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For Secretary of the Tribunals

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