



EMPLOYMENT TRIBUNALS

Claimant:
Mr D Ivanov
Mrs M Andonova

v

Respondent:
Beclean Abingdon Ltd

Heard at: Reading

On: 6 November 2023

Before: Employment Judge Anstis

Appearances

For the Claimant: No attendance or representation

For the Respondent: No attendance or representation

JUDGMENT

The claimants' claims are dismissed.

REASONS

INTRODUCTION

1. These reasons are provided on the basis that neither party attended the hearing so the tribunal was not in a position to provide oral reasons.
2. These claims have had a difficult history. A previous listing of the claims for a final hearing was abortive for reasons given in an order of 9 May 2023. That order recorded that it was the respondent's position that they would not be calling any witnesses at the final hearing.
3. In recent correspondence the respondent had made an application to strike out the claimants' claims on a number of bases, including the behaviour of the first claimant and problems in preparing for this hearing.

EVENTS TODAY

4. At 09:30 this morning the respondent's representative made an application to attend the hearing by CVP. In doing so, she referenced difficult personal circumstances. I understand those would have prevented her attending in person, although the respondent's representatives are a large professional organisation and it would usually be expected that in those circumstances counsel could be briefed or another representative attend on the respondent's behalf. It appears from the application that the respondent's representative had

not appreciated that the hearing was listed in person until the morning of the hearing, and that that was the reason why no substitute representative had been appointed to attend in her place. I do not see any ambiguity in the listing of the case, nor does the application suggest there is any good reason for not appreciating that the hearing was listed in person.

5. On the face of it, a mistaken assumption by a representative as to the mode of the hearing is not be a good reason for allowing attendance by another mode at the last minute. There were also considerable practical problems with granting the application. The hearing had been listed for a hearing room that did not have any video facilities, and the other hearing rooms that did have video facilities were in use, so it was difficult to see how a public hybrid hearing could be achieved in those circumstances.
6. The respondent's application was, in the end, superseded by events. Neither claimant attended the hearing. No correspondence was received from either claimant. Pursuant to rule 47 a tribunal clerk telephoned and emailed the first claimant (who acted as representative for both). No response was received from him.
7. No witness statements or other evidence had been submitted by the claimants or the respondent for the purposes of this hearing.

CONCLUSIONS

8. I was thus faced with a situation in which there was no evidence submitted by either party, the claimants had not attended and had not given any reason for their non-attendance. The respondent had not attended. The reason for the respondent's non-attendance was not a good one and their attendance by CVP could not be readily facilitated. This was against the background of claims dating back to 2019 that had already been subject to an abortive final hearing.
9. In those circumstances I took the view that the most appropriate way of dealing with matters was to dismiss the claims on the non-attendance of the claimants under rule 47. I recognise that this is not commonly done by the tribunal, but it seems to me to be the best that can be done in these circumstances. I am not in any position to hear the respondent's application(s) to strike out the claim when that would require a public hearing that would not be easy to facilitate with a last-minute change to hybrid. I did not consider I could properly make a decision on the pleadings alone. No reason had been given for the claimants' non-attendance and failure to submit any evidence. The claimants ultimately bore the burden of proving their claim, and I did not see how that could be done without their evidence and/or attendance at the hearing. On that basis I dismiss the claims on their non-attendance under rule 47.

Employment Judge Anstis
Date: 6 November 2023

**Case Number: 3327262/2019
3327263/2019**

Judgment and Reasons

Sent to the parties on: 4/1/2024

For the Tribunal Office

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