



# EMPLOYMENT TRIBUNALS

## Claimant

**MISS B HARRIS**

## Respondents

**v (1) ACTIVE ASSISTANCE LIMITED  
(2) STAFF MANAGEMENT LIMITED**

**Heard at:** Midlands West (by video)

**On:** 9 March 2023

**Before:** Employment Judge P Klimov (sitting alone)

## Representation:

**For the Claimant:** Not present or represented

**For the Respondent:** Ms R Bennett-Odlum, solicitor

## JUDGMENT

1. Staff Management Limited is joined as a party (second respondent) to these proceedings (Rule 34, Employment Tribunals Rules of Procedure 2013).
2. The claimant's claim is dismissed for non-attendance (Rule 47, Employment Tribunals Rules of Procedure 2013).

## REASONS

1. On 10 September 2022, the Tribunal listed the case for a case management preliminary hearing on 9 March 2023, starting at 10am, and sent the notice of hearing to both parties.
2. On 8 March 2023, the Tribunal changed the start time of the hearing to 2.15pm and notified the parties of the new start time by email. In her ET1 the claimant said that she wished to be contacted by email and gave your email address.

3. In the morning on 9 March 2023, the Tribunal converted the hearing from telephone to video (CVP) and sent the joining instructions by email.
4. The respondent joined the hearing. The claimant did not join the hearing.
5. At 14.20, the clerk telephoned the claimant. The claimant answered the phone. The clerk asked her to join the hearing. The claimant hung up. The clerk called her again, but the claimant did not answer the phone.
6. On my instructions the clerk emailed the claimant with the following message: *"You must join the hearing in your case. If you do not join the hearing by 14:30, the hearing will proceed in your absence and a judgment may be made against you, and you may be made liable to pay the respondent's costs."*
7. The clerk also left the same message on the claimant's voice mail.
8. The clerk was informed by a colleague that the claimant had telephoned the Tribunal and said that she did not have the link to the CVP hearing room. The clerk immediately emailed the claimant the joining instruction again. The claimant did not join the hearing.
9. The clerk tried to calling the claimant again. The claimant did not answer the phone.
10. I waited until 14:40 before starting the hearing. The claimant did not join the hearing.
11. I asked Ms Bennett-Odlum to make representations on behalf of the respondent. Ms Bennett-Odlum said that the claimant had not been actively pursuing her claim and had not responded to the respondent's request to clarify her complaints and to comment on the draft list of issues and the agenda for the today's hearing. She said that in the circumstances it would be in the interest of justice to strike out the claimant's claim, as the respondent was incurring costs in defending a claim which was impossible to understand without the claimant providing clarifications and the claimant was not engaged in the process.
12. I first considered whether the hearing should proceed in the claimant's absence and decided against that. The claimant's claim was very unclear and required a great deal of clarifications. In the absence of the claimant and any written representations from her it was not possible to clarify the issues in the claim and give any case management directions to progress the case further.
13. I was satisfied that every reasonable attempt was made to make the claimant to join the hearing and to enquire about the reasons for her absence. The claimant did not provide any information as to the reasons for her non-attendance. She did not ask for the hearing to be postponed. She hung up when the clerk told her to join the hearing and then ignored the clerk's subsequent phone calls. The claimant was warned via email and again by voice message that the hearing would proceed in her absence and a judgment may be made against her. The claimant was given sufficient extra

time to join the hearing. It did not appear that she made any attempts to do so.

14. Furthermore, the claimant ignored the Tribunal's directions (issued with the notice of the hearing) to fill in the agenda and send it to the Tribunal seven days before the hearing. She did not respond to the respondent's request to provide comments on the respondent's agenda and the draft list of issues. It did not appear that the claimant was actively pursuing her claim.
15. In the circumstances, I decided that it would be in accordance with the overriding objective to exercise my powers under Rule 47<sup>1</sup> of the Employment Tribunals Rules of Procedure and dismiss the claimant's claim for non-attendance of the hearing.
16. The claimant issued her claim against the first respondent (Active Assistance Limited). However, with its response the first respondent applied to have it substituted with Staff Management Limited because Staff Management Limited was the claimant's employer, and both companies were in the same group of companies.
17. The issue of the correct claimant's employer required further evidence. However, Ms Bennett-Odlum was representing both companies at the hearing and agreed that Staff Management Limited may be joined as the second respondent to the proceedings. I joined Staff Management Limited as the second respondent and dismissed the claimant's claim against both respondents.

**Employment Judge P Klimov**  
9 March 2023