



EMPLOYMENT TRIBUNALS

Claimant: Mr Gary Hayden

Respondent: Flowserve Flow Control

Heard at: London South in public by CVP **On:** 16 January 2024

Before: Employment Judge Tsamados (sitting alone)

Representation

Claimant: Did not attend, was not represented

Respondent: Did not attend, was not represented

JUDGMENT

The Judgment of the Employment Tribunal is as follows:

The claim is dismissed under Rule 47 and, further, the claim and response are struck out under Rule 37 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013.

REASONS

Background

- 1) The claimant brought a claim of unfair dismissal against the respondent, which was received by the Tribunal on 12 July 2023, following a period of early conciliation between 2-4 July 2023. He was employed from 18 May 2005 until 4 July 2023 as a Senior Applications Engineer. His claim form provided very little information about his claim beyond the words “unfair dismissal based on a buildup of factors”.
- 2) On 31 July 2023, the Tribunal sent the parties notice of today’s hearing and a schedule containing a number of case management orders that needed to be complied with by various dates. Neither party has complied with these case management orders.
- 3) On 17 August 2023, the Tribunal received a response to the claim from the respondent in which it denied unfairly dismissing the claimant and set out details of his dismissal by reason of capability.

- 4) On 5 October 2023, the Tribunal wrote to the claimant cc the respondent, on the instruction of Employment Judge Dyal instructing him to state what the basis of his claim was within 7 days.
- 5) On 13 October 2023, the claimant emailed the Tribunal (although he did not copy this to the respondent as required) stating that due to a death in the family he needed more time to reply to our letter of 5 October and asked for an extension of "say early next week". No further response was received from the claimant.
- 6) On 28 December 2023, the Tribunal sent a pre-hearing check letter to the parties so as to determine whether the case was prepared for the hearing or not. This warned the parties that if they did not respond then the claim and/or response could be struck out for non-pursuit. Neither party responded to this letter.
- 7) On 15 January 2024, the parties were sent the login details for today's hearing by email.

Today's hearing

- 8) By 10 am this morning, neither party had joined the CVP room.
- 9) I asked my clerk to contact them on the contact details they had provided and remind them of today's hearing, ask them to join by 10:30 am and if not to give an explanation as to why not. I also asked her to warn them that in the absence of one or both the parties I would proceed and I could decide to dismiss the case.
- 10) My clerk subsequently advised me that she had telephoned the claimant, who was not answering his phone but she was able to leave a voicemail message to the above effect. She further advised me that the respondent's phone simply rang unanswered and an email to the above effect.
- 11) By 11 am we had received nothing in response from either party.
- 12) Under Rule 47 of the 2013 Rules, where 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. The parties have not attended and provided no warning or explanation for their absence or responded to the Tribunal's enquiries. However, it is the claimant's claim and in his absence in particular it is impossible to take the matter further.
- 13) Under Rule 37 of the 2013 Rules, a Tribunal may strike out all or part of the claim or response on certain grounds. This includes non-compliance with an order of the Tribunal and that the claim or response has not been actively pursued. In this case, neither party has complied with the case management orders sent the notice of hearing and beyond presentation of the claim (and in addition in the claimant's case, sending his email of 13 October 2023) and beyond presentation of the response neither party has actively pursued the matter.

- 14) In the circumstances, I have decided to dismiss the claim under Rule 47 and for the sake of completeness to strike out the claim and response under Rule 37.

Employment Judge Tsamados
16 January 2024

JUDGMENT SENT TO THE PARTIES ON
29 January 2024

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FOR THE TRIBUNAL OFFICE

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