



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr H Cole  
**Respondent:** Rhino's Plant Hire Ltd (In Administration)  
**Heard at:** East London Hearing Centre (by CVP)  
**On:** 29 January 2024  
**Before:** Employment Judge B Beyzade

## Representation

Claimant: Not present or represented  
Respondent: Not present or represented

# JUDGMENT

## The Judgment of the Tribunal is that:

- 1) The claimant being neither present nor represented during the Final Hearing listed at 12 noon on 29 January 2024 at the East London Hearing Centre by Cloud Video Platform and at a point in excess of 35 minutes after the time set for the Final Hearing and there being no answer on the telephone number furnished by the claimant for the purposes of the Tribunal communicating with him at around 12.06, and the claimant not having responded to email correspondence sent by the Clerk to the Tribunal at 12.14, and the claimant not having otherwise communicated with the Tribunal in relation to his non-attendance at the Final Hearing thereafter; and on the Tribunal's own initiative, and having considered the content of the Tribunal file, the Tribunal dismisses the claimant's claim in terms of *Rule of Procedure 47 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013*.

# REASONS

## Summary of claim and procedure to date

1. The claimant lodged a claim on 19 October 2023 for arrears of pay (the claimant also stated in section 8.2 of his ET1 Form that he had been wrongfully dismissed), which the respondent resisted.

2. Notice of today's Final Hearing by Cloud Video Platform ("CVP") was sent to the parties on 17 November 2023 together with joining instructions.

**Final Hearing on 29 January 2024**

3. The case called for Final Hearing at East London Hearing Centre by CVP on 19 January 2024 at 12 noon.
4. There was no appearance for or on behalf of the claimant.
5. The respondent did not appear and they were not represented.
6. By an email from Rachel Halton, Partner at Knights Professional Services Ltd dated 15 December 2023, the Tribunal were advised by the respondent's representative that given the lack of funds they will not be attending the hearing. Although the respondent's representative subsequently advised that they were no longer representing the respondent, they were directed (on the morning of 29 January 2024) to provide a copy of the Notice of Hearing to the respondent and updated correspondence details for the respondent.
7. The case file records that Notice of the date and time set down for Hearing was sent to the claimant and the respondent on 17 November 2023 at the correspondence address provided by them to the Employment Tribunal for the purposes of receiving such communications. No return of the Notice of Hearing issued to the claimant, or the respondent has been received by the Tribunal.
8. The claimant did not write to the Tribunal to provide any additional information or documents relating to their claim or to communicate that they will not be attending the hearing (or any reasons in respect thereof).
9. On the sitting Judge's directions, the Clerk to the Tribunal checked and confirmed that no contact had been made by the claimant with the Tribunal in connection with the Hearing since correspondence was sent to parties by the Tribunal by email on 17 November 2023.
10. On the sitting Judge's direction, the Clerk to the Tribunal attempted to communicate with the claimant on the telephone number provided by the claimant for that purpose at around 12.06. Although the claimant did not respond to the telephone communication, the claimant was advised by voicemail message on the afternoon of 29 January 2024 that the claimant had not attended the hearing and that he must contact the Tribunal or attend the Final Hearing by 12.30, in the absence of which the Final Hearing will proceed in his absence.
11. The claimant was advised by email sent at 12.14 on 29 January 2024 that the claimant must attend by 12.30, in the absence of which the Hearing will proceed in his absence and the claim may be dismissed.
12. The Tribunal sat at 12.04 and then adjourned briefly at 12.05 and sat again at 12.30 to afford the claimant the opportunity to attend (though late) or to communicate with the Tribunal regarding his non-attendance. Accordingly, after a brief adjournment, the Tribunal reconvened at 12.30.

*Dismissal of claim pursuant to Rule 47 of the Employment Tribunal Rules*

13. At 12.36 and in light of the claimant's unexplained non-attendance and in the absence of a good reason (which was satisfactory to the Tribunal), and on the Tribunal's own initiative, the Tribunal dismissed the claimant's claim in terms of Rule 47 of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 ("the ET Rules"). Rule 47 of the ET Rules provides:  
  
"47. 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."
14. I took into account the nature of the claimant's complaints, the issues that the Tribunal were required to investigate and determine (insofar as they were possible to ascertain from the pleadings), and the content of the Claim Form and Response. I considered the documents and correspondences on the Tribunal file. I was satisfied that the claimant had been afforded ample opportunity to attend the Final Hearing and he had failed to attend the Hearing on 29 January 2024. I took into account the Tribunal's overriding objective (Rule 2 of the ET Rules).
15. I consider that the claimant's non-attendance is capable of being explained by his having decided not to pursue his claim now that he knows about the potential issues outlined in the Claim Form, the Response and the correspondences between the parties and the Tribunal. That explanation is consistent with the claimant's apparent failure to communicate with the Tribunal.
16. No other explanation has been put forward explaining why the claimant had not attended the hearing.
17. I am satisfied that the Tribunal has made all enquiries that may be practicable about the reasons for the claimant's absence.
18. The claimant did not attend today's hearing and Rule 47 of the ET Rules specifically deals with non-attendance at a hearing. It was not appropriate to hear the claimant's claim in the claimant's absence given the nature of the claim and the issues before the Tribunal. I therefore dismissed the claimant's claim. Prior to dismissing the claim, I considered and gave full effect to the Tribunal's overriding objective (Rule 2 of the ET Rules). Dismissing this claim under Rule 47 is proportionate and in accordance with the Tribunal's overriding objective in all the circumstances.

**Employment Judge Beyzade**  
**Date: 29 January 2024**