



## EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 8000354/2023

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Held in Glasgow on 19 February 2024

Employment Judge D Hoey

10 Mr Anirudh Chaudhary

Claimant  
Not present and  
Not represented

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15 Dalmally Management Ltd t/a Muth Ben Doran Hotel

Respondent  
Represented by:  
Mr J Madrazo -  
Director

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### JUDGMENT OF THE EMPLOYMENT TRIBUNAL

20 The claimant having failed to attend the Hearing, enquiries having been made and the information presented having been considered, the claim is dismissed in terms of rule 47 of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

### REASONS

25 1. The claimant presented a claim on 15 July 2023 ticking the box race discrimination and that he was owed holiday pay, arrears of pay and other sums. The form simply said the respondent had “made the claimant work” over and above his contracted hours. The respondent resisted the claim arguing all sums properly due had been paid to the claimant.

30 **Respondent told to set out sums paid and claimant to set out any dispute**

2. At the first preliminary hearing on 15 September 2023 the claimant confirmed the only claims he was progressing were in respect of unlawful deduction of wages and holiday pay and his claim in respect of race discrimination was dismissed. The respondent was ordered to set out the precise sums that had

been paid to the claimant in the relevant period (in terms of pay and holiday pay). The claimant was to confirm whether or not he disputed those figures and if so in what way. That would ensure the precise basis of the claim was understood and set out fairly.

5 **Claimant does not dispute sums set out**

3. The respondent complied with the order and set out the sums that had been paid to the claimant and the basis for the calculation both in respect of wages and holiday pay. The claimant did not provide any response.

**Claimant given further chance to dispute sums paid**

- 10 4. At the second preliminary hearing on 15 November 2023 the claimant was told of the importance of complying with orders and was given 7 days to explain if any of the sums the respondent had set out in writing were disputed. A 2 day hearing was fixed to determine the claims. The Employment Judge noted that if the claimant did not intend to progress his claim (and attend the  
15 Hearing that had been fixed) he was to let the Tribunal and respondent know. Case management orders were issued.

**Claimant fails again to dispute sums paid**

5. The claimant did not respond to challenge the sums the respondent had set out or to say he understood that sums were still due to him. The claimant did  
20 not engage further with the respondent or the Tribunal.

**Respondent attends hearing and claimant fails to do so**

6. The respondent had prepared a bundle of 95 pages for the Hearing. The respondent brought the requisite number of copies as had been ordered to the Hearing at which respondent was in attendance, represented by a director  
25 with a witness present.

7. The claimant did not attend the Hearing nor notify the Tribunal (or respondent) that he was not attending.

8. After a period of time before the appointed start time the clerk attempted to call the claimant but there was no reply.

### **The Tribunal Rules**

9. In terms of rule 47 of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013: *“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.”*

### **10 Decision**

10. As the claimant had not properly set out what he was disputing with regard to the information provided by the claim as presented by the claimant was unclear. The information the respondent had presented showed that the claimant had in fact received all sums to which the claimant appeared to be due. That did not now appear to be disputed by the claimant who had been given a number of occasions to set out if he disputed the position advanced by the respondent and what specifically he claimed.

11. I decided to dismiss the claim given the claimant's failure to attend and the foregoing. Sufficient enquiries had been made as to whether or not the claimant intended to present his claim. The claimant had not engaged with the Tribunal process and he had failed to comply with the orders that had been issued. The claimant had not disputed the position as set out by the respondent.

### **Respondent may seek a preparation time order**

12. The respondent had incurred expense (or at least lost time) in preparing for the Hearing and the respondent's agent wished to consider whether or not to make an appropriate application in terms of rule 79 (which deals with compensation for time a party has incurred in preparing for a hearing – a preparation time order). Such an application, if so advised, would be in writing and the claimant would have the opportunity to respond.

**Claim is dismissed**

13. The claim is accordingly dismissed.

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D Hoey

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**Employment Judge**

19 February 2024

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**Date**

**Date sent to parties**

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