



EMPLOYMENT TRIBUNALS

CLAIMANT: Mr B Stanley
RESPONDENT: HATS Group Limited

PRELIMINARY HEARING

Heard at: South London (by video / CVP) **On:** 13 February 2024

Before: Employment Judge Martin

Appearances

Claimant: No attendance
Respondent: Ms Beattie, litigation manager

JUDGMENT

The judgment of the Tribunal is that the Claimant has not actively pursued his claim and his claim is struck out.

REASONS

1. Today was listed as the first day of a four-day final hearing. The Regional Judge converted the first day to an open preliminary hearing to consider the following application from the Respondent.

“We act for the Respondent in the above matter.

We write to apply for the Claimant’s claim to be struck out under Rule 37(1)(d) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, as the Claimant is not actively pursuing his claim for the following reasons:

Following the Tribunal’s preliminary hearing on 22nd June 2023, the Judge made case management orders for the Claimant to provide a schedule of loss, disclosure of documents and to provide a witness statement. Despite our numerous attempts to contact the Claimant regarding these orders, all have not been complied with.

Further, we sent the Claimant an updated hearing bundle after the Respondent had additional documents to include, both by email and hard copy. However, the updated bundle was returned for the reason of “unwanted”. A copy of this post is attached.

It is our reasonable belief that the Claimant was aware of the contents of the package as we had used the same posting bag and courier when we sent the Claimant the original bundle. Therefore, we consider the Claimant was aware of the likely contents of the package but refused it.

Further, notwithstanding the Claimant not responding to our communications regarding compliance with the case management orders, we provided the Claimant with copies of the Respondent's witness statements in both electronic and hard copy by the date of the Tribunal's order. However, the hard copy of the witness statements has recently been returned to us as the Claimant failed to pick up the package. Please see the attached envelope which was returned.

2. *Therefore, we consider that not only is the Claimant not actively pursuing his claim, but he is also actively avoiding it. Accordingly, we consider that a strike out of the Claimant's claim is proportionate and in accordance with the Overriding Objective.*

3. By 9.55 the Claimant had not joined the hearing, so the clerk called him on the telephone number provided on his ET1 form. The call did not go through. I waited until 10.10 to see if the Claimant would join the hearing. He did not. I therefore started the hearing.
4. The Respondent confirmed the content of its application which is set out above. I considered this together with the documents showing the bundles which had been returned. The Claimant has not actively pursued his claim since the last preliminary hearing on 22 June 2023. The Respondent, despite trying to get in touch with him and attempting to comply with the orders has heard nothing from him. The Tribunal also has not heard anything from him. There has been no attempt by the Claimant to comply with the orders made in June 2022.
5. In all the circumstances, I find that the Claimant has not actively pursued his claims and his claims are struck out.

Employment Judge Martin
Date: 13 February 2024

Sent to the parties on
Date: 5th March 2024

For the Tribunal Office