



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs R Ley (Deceased)

**Respondent:** Reigate Ex Service & Social Club

**Heard at:** London South Employment Tribunal (via CVP)  
**On:** 26<sup>th</sup> February 2024

**Before:** Employment Judge Lang

## Representation

Claimant: Not in attendance

Respondent: Not in attendance

# JUDGMENT

1. Pursuant to Rule 47 the claim is dismissed for non-attendance.

# REASONS

2. This is a claim brought by Mrs R Ley. Mrs Ley has sadly passed away during these proceedings and the claims are pursued by her husband and representative Mr M Ley. The claims are for unfair dismissal, breach of contract and unauthorized deduction from wages. The claim was received on 12<sup>th</sup> January 2020, over four years ago. The Respondent is Reigate Ex-Service and Social Club, who by way of ET3 dated resist the claims and put in issue the employment status of Mrs Ley.
3. Limited documents have been available to me for this hearing. I have had the ET1 and ET3. I have also had the following documents:
  - a. Some pages (namely 1,2 and 6) from a document described Claimant's skeleton argument, of which the Claimant herself was the author. That document is undated and should have run to 6 pages.
  - b. The Respondent's skeleton argument dated 11<sup>th</sup> August 2020 drafted by counsel.
  - c. A statement from the Claimant's husband Mr. Michael Ley, which is undated.
  - d. A document titled "R Ley v Reigate Ex Services Social Club – Evidence of Employment" which runs to 4 pages. I have presumed that document has been lodged on behalf of the Claimant however, I am not clear who the

author is.

- e. The Judgments of Judge Nash dated 21<sup>st</sup> September 2022 and 2<sup>nd</sup> June 2023.
  - f. Correspondence from December 2023 between the tribunal and the Claimant.
4. I have not had the benefit of the physical file as I am sitting through the virtual region and the file has not been uploaded digitally to the case management system, however the clerk has brought to my attention the relevant correspondence and documents on the file. No updated documents nor bundle has been lodged for this hearing, although I note a bundle was lodged for the hearing in September 2022.
  5. The matter was listed for an open preliminary hearing on 21<sup>st</sup> September 2022 before Employment Judge Nash. At that hearing no party attended and Judge Nash dismissed the claim on the basis that the Claimant did not attend. Reasons for that were given. Following an application for reconsideration, dated 25<sup>th</sup> October 2022, Judge Nash revoked their Judgment from September 2022 by way of a Judgment dated 2<sup>nd</sup> June 2023. For the sake of completeness, I have not seen the application from the Claimant asking for the reconsideration. I note the Respondent did not attend that hearing and it appears there has been no correspondence from the Respondent from them since their representative came off the record on 27<sup>th</sup> April 2020.
  6. Following the reconsideration judgment dated 2<sup>nd</sup> June 2023 the matter was listed for a further hearing on the 8<sup>th</sup> December 2023. On the 23<sup>rd</sup> November 2023 the tribunal received an email from a Mr. Stephen Chinery. I note from the documents he is someone who it is described as having also having a claim against the Respondent. The relevant part of his email is as follows:

*Last night I had a phone call from Mr Ley informing me he had an accident on his mobility scooter which he was taken to hospital and is being kept in for observation. Not sure when he will be released. So the purpose of this e-mail is to inform you of the incident and he is requesting an adjournment of his hearing. Dated 8<sup>th</sup> December 2023 but he will be in touch on his release from hospital.*
  7. Employment Judge Khalil considered that correspondence on 5<sup>th</sup> December 2023 and asked for evidence of hospital admission to be provided. The Tribunal Office has no record of any response to that request being received.
  8. On 7<sup>th</sup> December 2023 correspondence was sent from the Tribunal Office to the parties from the acting Regional Employment Judge who said “*Notwithstanding absence of admission evidence being provided by the Claimant’s representative, in all the circumstances it is appropriate to postpone the hearing. It will be listed in due course. The evidence of hospital admission is required, however.*”
  9. The notice of hearing for today’s hearing was subsequently sent on 14<sup>th</sup> December 2023 and the link for this hearing sent on Friday 23<sup>rd</sup> February 2024.
  10. No party has attended this hearing. The Clerk has checked the Tribunal inbox and confirmed there is no correspondence from either party. The Tribunal do not hold a number for Mr. Ley and therefore it has not been possible to call him. As noted above the last correspondence the Tribunal has received was from Mr. Chinrey on behalf of the Claimant’s representative dated 23<sup>rd</sup> November 2023. There has been no response to the directions made. The Clerk attempted to call the Respondent this Moring, there was no answer. There has been no contact with them or a representative for nearly four years.

The Law

11. The relevant provisions of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013 schedule 1 are rule 47 non-attendance; rule 30A postponements; Rule 29 case management orders; and Rule 2 the overriding objective which must be applied whenever I make a case management decision.

Conclusion

12. I am left in a position where I do not know why the Claimant's representative, Mr. Ley, has not attended this hearing. Whilst I note the hospital admission at the end of November 2023 the direction to provide evidence of the same has not been complied with and there is no evidence to say today's failure to attend is related to the hospitalization which is described as taking place in November 2023. There has been a failure to comply with directions since then. This is the third listing of the hearing which has been unsuccessful (although, I note the 8<sup>th</sup> December 2023 hearing was postponed). There is a cost to the public from hearings which are not effective and there would be further cost, and use of tribunal resources if I postponed of my own motion or made some other case management directions today. To do so will also cause delay, in the context of a claim that is already 4 years old. In the absence of any explanation and failure to attend I consider a postponement to be disproportionate. In all the circumstances, and for the reasons outlined, I consider the appropriate order to make is to dismiss the claim due to the non-attendance of the Claimant's representative pursuant to rule 47.

Employment Judge Lang

Date 26<sup>th</sup> February 2024