



EMPLOYMENT TRIBUNALS

Claimant: Ms. U. Kawula

Respondent: The House of Yoga (London) Limited (in liquidation)

Heard at: London South Employment Tribunal by CVP **On:** 21 March 2024

Before: Employment Judge Chudleigh (sitting alone)

Appearances

For the claimant: did not attend and was not represented
For the respondent: did not attend and was not represented

JUDGMENT

The claimant's claims in respect of unfair dismissal, redundancy pay, notice pay, holiday pay, arrears of pay and other payments are not well founded and are dismissed

REASONS

1. The claimant presented claims on 5 and 6 July 2022. The respondent defended the claims but then entered into compulsory liquidation on 25 October 2023.
2. The matter was listed for hearing on 16 and 17 November 2023. The claimant did not attend and instead sent a sick note in Polish.
3. The matter was postponed to 21 March 2024 at 2pm and an unless order was issued requiring the claimant to produce medical evidence in English supporting the reason for not attending that hearing by 8 January 2024.

4. The claimant produced a translation of a medical certificate that was unsatisfactory in that it did not give a diagnosis nor did it say the claimant was unfit to attend the hearing. The translated certificate did say the claimant was unable to work from 14 November 2023 to 20 November 2023 and “the sick person should lie down”. Despite being unsatisfactory, the document sufficiently complied with the unless order and the claims were not automatically struck out.
5. Given the respondent was in liquidation and the Official Receiver was not proposing to “oppose the hearing” it was envisaged that the key issue would be an assessment of compensation.
6. The claimant was ordered to provide the liquidator and the tribunal with a schedule of loss on or before 20 March 2024.
7. The claimant failed to provide a schedule of loss as ordered and on 21 March 2024 at 11.31 am, just two and a half hours before the hearing was due to start she wrote as follows to the tribunal requesting a postponement:

“I am writing to kindly request to postpone my hearing due to family circumstances. My Mother was taken by ambulance to hospital yesterday 20th March 2024 and she is awaiting an urgent heart operation. Her health is critical. The problem is that there are no free slots and I have to urgently find a hospital which will be able to proceed with the operation asap. I will provide documents confirming the circumstances but I do not have them yet and I will also need time for translation. I am really sorry for the inconvenience this might cause but I hope you understand and that reasons are sufficient to grant the postponement of the hearing.”
8. The email did not come to my attention until shortly before the hearing was due to start. I refused the adjournment on the papers but said that the application could be renewed at the hearing which I put back to 2.30pm to give the claimant more time to prepare herself having received notice that the hearing was not being postponed.
9. The claimant failed to attend the hearing.
10. I considered again whether to postpone the hearing and decided not to for the following reasons:
 - 1) The claims were stale, having been started in July 2022.
 - 2) This is the second time the claimant failed to attend a hearing that had been listed.
 - 3) The claimant’s mother became ill and was taken to hospital on 20 March 2024 yet the claimant delayed until 11.31 am on 21 March 2024 before contacting the tribunal.
 - 4) It was not apparent why another person could not have assisted the claimant’s mother with finding a hospital that could operate on her.

- 5) The claimant had not supplied the tribunal with a schedule of loss as ordered.
11. Balancing up all these factors, I concluded in the exercise of my discretion that it was not in the interests of justice to postpone the hearing. In making this decision I had regard to the overriding objective and to the Presidential Guidance on seeking postponements of hearings.
12. There were issues of fact to be determined, for example, whether the claimant was made redundant, whether she was paid holiday pay, whether she was owed overtime pay and whether she was entitled to notice pay.
13. Further, the claimant was required to prove her losses which she was not able to do as she was not present.
14. In the circumstances I was not satisfied that the claimant had discharged the burden of establishing any of the losses she claimed.

Employment Judge Chudleigh

21 March 2024

Sent to the parties on:

22 March 2024

For the Tribunal:

P Wing