



EMPLOYMENT TRIBUNALS

Claimant

Respondent

v

Ms E Proctor

HSBC UK Bank PLC

Heard: in public by CVP in Leeds

On: 7 May 2024

Before:

Employment Judge JM Wade

Ms J Blesic

Mr I Taylor

Appearance:

For the Claimant:

No attendance

For the Respondent:

Ms Barsam, counsel

The unanimous Judgment of the Tribunal is that:

JUDGMENT

The claimant's claims are dismissed pursuant to Rule 47.

REASONS

1 Today was the first of three days allocated to hear the claimant's claims. The Tribunal had been provided with an agreed statement of facts, hearing file and other documents including a statement from the claimant and a statement on behalf of the respondent.

2 The Tribunal commenced its reading. We wished to discuss the arrangements for the hearing with the parties at 10, but shortly before that we were provided with an email sent by the claimant yesterday. She was very clear she did not seek a postponement, but wished the hearing to go ahead in her absence. She explained her health prevented her from attending.

3 We discussed Rule 47 with the respondent, and stood down to enable the respondent to consider matters and for the Tribunal to complete sufficient reading to make a decision.

4 We directed a letter to the claimant to inform her of Rule 47 – she acted as a

litigant in person and we wished to be able to consider anything further she might wish to say in writing.

5 The respondent sought a rule 47 dismissal. The claimant appeared in her letter to wish the Tribunal to determine the case without her presence and it was important to her that she had not withdrawn it.

6 The Tribunal considered the following options:

- a. Adjourn to a date when the claimant might be well enough – her email was very clear that this was not her wish;
- b. Communicate further adjustments that might enable her to participate - the Tribunal discussed various measures, and understood that the claimant had participated in the last hearing, but in the round we could not see fairly how to make these three days comprise an effective hearing because the claimant was not well enough;
- c. Proceed by hearing the respondent's evidence and taking account of the claimant's written statement, finding facts, applying the law and giving a decision "on merit";
- d. Dismiss pursuant to rule 47.

7 On balance we considered it was in the interests of justice to dismiss pursuant to Rule 47. The industrial experience of this Tribunal is that a fair decision on the facts, or applying the law to the facts, cannot come from hearing only from one side. It would not be fair to give a decision on the merits of the case in such circumstances. That was also the respondent's position – there were matters of fact it wished to discuss with the claimant, even though many matters were not in dispute.

8 We also take into account that the interests of justice include the interests of all parties coming to the Tribunal, and we have a duty to save cost, resources, and the public purse where we can. The time involved in finding facts and applying the law to those facts would be much greater in proceeding without the claimant, in comparison with a Rule 47 dismissal.

9 In all the circumstances we consider this is the just course and we dismiss the claims.

JM Wade

Employment Judge JM Wade

Dated: 7 May 2024

All judgments (apart from those under rule 52) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

Hearings are recorded where equipment permits and there is a practice direction available on the Tribunal's website containing further information.