



EMPLOYMENT TRIBUNALS

Claimant: Ms K Campbell

Respondent: Muse Fashion Ltd

Heard at: Central London Employment Tribunal (by video)

On: 3 May 2024

Before: Employment Judge Annand

Representation

Claimant: No appearance

Respondent: No appearance

JUDGMENT

1. Under Rule 37 of the Employment Tribunal Rules of Procedure 2013, the Claimant's claim is struck out on the basis that a) the claim has not been actively pursued and b) the claim has no reasonable prospects of success.

REASONS

2. On 27 January 2024, the Claimant submitted a claim to the Tribunal against the Respondent for £1,867.55 for outstanding wages she claimed were owed for her final month of work, holiday pay and a redundancy payment. She noted she was also seeking monies for the inconvenience and stress caused.
3. On 23 February 2024, a Notice of Hearing by Video was sent to the parties. The hearing was listed for 3 May 2024 at 2pm.
4. On 28 March 2024, the Tribunal wrote to the Claimant. It was noted that Regional Employment Judge Freer had asked the Claimant to provide an email address for the Respondent. The Respondent had not submitted a Response to the Claimant's claim. The Tribunal wished to check that the

Respondent had been properly served with the Claim Form.

5. On 18 April 2024, one of the Tribunal's Legal Officers emailed the Claimant noting that they had not been able to locate a response to the Tribunal's letter of 28 March 2024. The email noted if the Claimant wished to continue with her claim, she should provide an email address for the Respondent as previously requested, and documents confirming her losses, by 4pm on 25 April 2024. It was noted the Tribunal would then consider if it was possible to issue a default judgment or if the hearing on 3 May 2024 should proceed.
6. On 29 April 2024, the Claimant was sent a Strike Out Warning by the Tribunal. She was advised that Employment Judge Webster was considering striking out the whole of her claim because she had not responded to the Tribunal's correspondence of 28 March and 18 April 2024. The letter noted that if the Claimant wished to object to the proposal the Claimant should give her reasons in writing or request a hearing by 1 May 2024. The Tribunal's letter was sent to the Claimant and two email addresses for the Respondent.
7. On the same day, the Respondent replied to the Tribunal's email stating that the Claimant had been paid and attaching confirmation of the transfer of funds.
8. On 30 April 2024, one of the Tribunal's Legal Officers wrote an email to the Claimant asking her to confirm that she had been paid by the Respondent as they had stated and to confirm if she wished to withdraw or continue with her claim.
9. On 1 May 2024, a member of the Tribunal's Case Progression Team telephoned the Claimant and spoke to her. It was noted on the file that the Claimant had not been aware of the hearing on 3 May 2024. She confirmed she had received the emails from the Tribunal but had not replied to them. She confirmed she had been paid the money she was owed by the Respondent. She was asked to respond to the Tribunal's emails as soon as possible. She confirmed that she wished to continue with her claim because while she had been paid what she was owed, she had been paid 7 months late.
10. On 2 May 2024, the Tribunal sent the Claimant and the Respondent an email noting that they had not received a bundle for the hearing listed for 3 May 2024.
11. On 3 May 2024, neither party attended the hearing listed for 2pm.
12. I have decided to strike out the Claimant's claim in its entirety. Firstly, it is clear from the information set out above that the Claimant's claim has not been actively pursued. Although the Claimant has been sent a number of letters and emails from the Tribunal, and a Strike Out warning, she has not responded to any of those communications. Although she indicated on the telephone on 1 May 2024 that she wished to pursue her claim, she was asked to respond to the Tribunal's emails (which she confirmed she had received) and she failed to do this. She also failed to attend the hearing on

3 May 2024. On this basis, I find the Claimant's claim has not been actively pursued and it is appropriate to exercise my discretion to strike out the claim under Rule 37(1)(d).

13. Furthermore, I also find that under Rule 37(1)(a) the Claimant's claim has no reasonable prospects of success. The Claim Form set out the Claimant was seeking payment of £1,867.55 for outstanding wages, holiday pay and a redundancy payment, and monies for stress and inconvenience. It has been recorded that the Claimant has confirmed that she has received the payment of £1,867.55. The Tribunal is not able to award damages for stress and inconvenience in respect of a claim of this type. Therefore, there is no further payment owed by the Respondent to the Claimant and so this claim has no reasonable prospects of success.

Employment Judge Annand
Date: 9 May 2024

JUDGMENT SENT TO THE PARTIES ON

29 May 2024
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FOR THE TRIBUNAL OFFICE

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Recording and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>