



EMPLOYMENT TRIBUNALS

Claimant: Mr Rahmat Ali

Respondent: Barts Health NHS Trust

Heard at: East London Hearing Centre (by CVP)

On: 15 April 2024

Before: Employment Judge B Beyzade

Representation

Claimant: Not present or represented

Respondent: Not present or represented

JUDGMENT

The Judgment of the Tribunal is that:

- 1) The claimant and the respondent being neither present nor represented during the Final Hearing listed at 12 noon on 15 April 2024 at the East London Hearing Centre by Cloud Video Platform and at a point in excess of 45 minutes after the time set for the Final Hearing, on the Clerk to the Tribunal having contacted the claimant and the respondent by telephone at 12.20 and 12.21 respectively on 15 April 2024, and on the claimant and the respondent not having responded to email correspondences sent by the Clerk to the Tribunal at 12.20 and 12.24 on 15 April 2024, and the claimant and the respondent not having otherwise communicated with the Tribunal in relation to their non attendance at the Final Hearing thereafter; on the claimant's non-attendance; on the respondent's non attendance; and on the Tribunal's own initiative, and having considered the content of the Tribunal file, the Tribunal dismisses the claimant's claim in terms of Rule of Procedure 47 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

REASONS

Summary of claim and procedure to date

1. The claimant lodged a claim on 11 December 2023 ticking the relevant box at section 8.1 of the ET1 Form indicating that the claimant was "making another type of claim which the Employment Tribunal can deal with." He indicated in the free text box

beneath that he was claiming “breach of contract - withdrawal of a successful promotion”, to which the respondent entered a Response resisting the claim.

2. Notice of today’s Final Hearing by Cloud Video Platform (“CVP”) was sent to the parties on 27 January 2024 together with joining instructions.

Final Hearing on 15 April 2024

3. The case called for Final Hearing at East London Hearing Centre by CVP on 15 April 2024 at 12 noon. The Tribunal sat at 12.04.
4. There was no appearance for or on behalf of the claimant.
5. The respondent did not attend the hearing and they were not represented.
6. The respondent presented a Response to the claimant’s claim on 15 February 2024.
7. The case file records that Notice of the date and time set down for Hearing was sent to the claimant and the respondent on 27 January 2024 at the correspondence address provided by them to the Employment Tribunal for the purposes of receiving such communications. No return of the Notice of Hearing issued to the claimant, or the respondent has been received by the Tribunal.
8. The claimant did not provide any additional information or documents relating to the claimant’s claim or communicate that they will not be attending the hearing (and the claimant did not give any reasons in respect thereof).
9. On the sitting Judge’s directions, the Clerk to the Tribunal checked and confirmed that neither the claimant nor the respondent had contacted the Tribunal in connection with the Hearing since correspondence was sent to parties by the Tribunal on 27 January 2024.
10. On the sitting Judge’s direction, the Clerk to the Tribunal attempted to communicate with the claimant and the respondent.
11. The claimant and the respondent were contacted by the Clerk to the Tribunal by telephone at 12.20, and 12.21 on 15 April 2024. The Clerk to the Tribunal advised that there was no reply and that on both occasions a voicemail message was left for parties. Emails were sent to the claimant and the respondent at 12.20 and 12.24 advising that today’s hearing was due to start at 12 noon, the claimant and the respondent had not attended the hearing, and the claimant and the respondent were advised that if they failed to attend the hearing by 12.30, the hearing will proceed in their absence and the claim may be dismissed. A copy of Notice of Hearing which contained the log-in details of the CVP hearing was attached to the second email that was sent. The Clerk to the Tribunal advised the Employment Judge when the hearing had reconvened that the claimant and the respondent did not reply to those emails.
12. The Tribunal having sat at 12.04 and then adjourned briefly at 12.05 and sat again at 12.44 to afford the claimant and the respondent the opportunity to attend (though late) or to communicate with the Tribunal regarding their non-attendance.

13. Accordingly, after a brief adjournment, the Tribunal reconvened at 12.44.

Dismissal of claim pursuant to Rule 47 of the Employment Tribunal Rules

14. At around 12.49 and in light of the claimant's and the respondent's unexplained non attendances and in the absence of a good reason (which was satisfactory to the Tribunal), and on the Tribunal's own initiative, the Tribunal dismissed the claimant's claim in terms of Rule 47 of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 ("the ET Rules"). Rule 47 of the ET Rules provides:

"47. If a party fails to attend or to be represented at the hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it shall consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence."

15. I considered the nature of the claimant's complaint, the issues that the Tribunal were required to investigate and determine (insofar as they were possible to ascertain from the pleadings), and the content of the Claim Form and the Response. I considered the documents and correspondences on the Tribunal file. I was satisfied that the claimant and the respondent had been afforded ample opportunity to attend the Final Hearing and they had both failed to attend the Hearing on 15 April 2024. I took into account the Tribunal's overriding objective (Rule 2 of the ET Rules).
16. I consider that the claimant's non-attendance is capable of being explained by him having decided not to pursue his claim. That explanation is consistent with the claimant's apparent failure to communicate with the Tribunal.
17. No satisfactory explanation has been put forward explaining why the claimant or the respondent had not attended the hearing on 15 April 2024.
18. I am satisfied that the Tribunal had made all enquiries that may be practicable about the reasons for the claimant's and the respondent's absences.
19. The claimant and the respondent did not attend today's hearing and Rule 47 of the ET Rules specifically deals with non-attendance at a hearing. I considered that the claim could not be heard in the absence of the claimant, and that the claimant was required to provide further details and evidence in relation to the claimant's substantive claim.
20. In my judgment, it was not appropriate to hear the claimant's claim in the claimant's absence given the nature of the claim and the issues before the Tribunal. I therefore dismissed the claimant's claim. Prior to dismissing the claim, I considered and gave full effect to the Tribunal's overriding objective (Rule 2 of the ET Rules) and I took account of any information that was available to me. Dismissing this claim under Rule 47 of the ET Rules is proportionate and in accordance with the Tribunal's overriding

objective in all the circumstances.

Employment Judge Beyzade

Date: 08 June 2024