



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr. Lee Mullins

**Respondent:** London Borough of Harrow

**Heard at:** Bury St Edmonds (in public by video)      **On:** 7 May 2024

**Before:** Employment Judge Skehan, Mr Middleton and Mr Kidd

## Appearances

For the claimant: No attendance

For the respondent: Mr Lester, Counsel

## JUDGMENT

1. The entirety of the claimant's claims are dismissed in accordance with the provisions of Rule 47 of the Employment Tribunal Rules.

## Reasons

2. The claimant did not attend the final hearing listed to commence on 7 May 2024. At the commencement of this hearing, the tribunal clerk made three attempts to contact the claimant by phone. His calls were not answered. The clerk also emailed the claimant. The claimant did not join the video hearing prior to 12.30pm when this matter was determined.
3. The tribunal noted that:
  - a. The claimant had been aware of the listing of this final hearing since 26 July 2023.
  - b. The claimant had ceased all contact with the respondent from 11 February 2024. The respondent's repeated attempts to contact the claimant after this date had gone unanswered.
  - c. The claimant has failed to provide any witness statement in support of his claim and is not present at the final hearing to proceed with his claim.
  - d. The respondent has previously applied in writing to the tribunal on 8 April 2024 for the claim to be struck out and the application was copied to the claimant. The tribunal has informed the claimant in writing that the respondent's application would be considered today, prior to the final hearing. All reasonable attempts have been made by the respondent and the employment tribunal to ensure that the claimant is fully aware of the possibility of his claims being struck out. No response has been received from the claimant.
  - e. In the circumstances, the tribunal considers it unlikely that the claimant was

delayed or had forgotten about the matter or was intending to attend the hearing.

4. The tribunal considered whether an adjournment of this matter would be appropriate. There is no reason to suppose that the situation would be any different should this matter be adjourned and relisted. An adjournment in these circumstances would not be in line with the overriding objective and would cause significant prejudice to the respondent.
5. The tribunal considered whether the matter could proceed in the claimant's absence. The claimant has not produced a witness statement in support of his claim nor is he present for cross examination or to make any submissions. In the circumstances we did not consider it to be in line with the overriding objective to proceed in the claimant's absence.
6. It is also noted that should the matter not be dismissed in accordance with the provisions of rule 47, these are circumstances where the tribunal consider it appropriate to strike out the claimant's claim in accordance with the provisions of Rule 37 of the Employment Tribunal Rules. The tribunal refers to the written and oral submissions made by Mr Lester.
7. For the sake of completeness, in relation to the respondent's strike out claim the tribunal notes:
  - a. There has been no communication from the claimant to the respondent or the employment tribunal since 12 February 2024. The claimant has failed to comply with the tribunal directions to exchange witness statements. He has also failed to comply with the direction to liaise with the tribunal to confirm readiness for final hearing.
  - b. The respondent's strikeout application was made in writing on 8 April 2024. The claimant has had the opportunity to respond to that application in writing or to attend the final hearing. The claimant has not engaged with this process.
8. The tribunal considers that the circumstances in this matter as set out above fall within Rule 37(1)d and the claimant's claim has not been actively pursued. There has been inordinate and inexcusable delay on the claimant's part that has caused serious prejudice to the respondent and has resulted in a situation whereby a fair trial is not possible.

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Employment Judge Skehan

7 May 2024

Sent to the parties on:

25/6/2024

For the Tribunal Office:

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