



EMPLOYMENT TRIBUNALS

Claimant: Mr Steven Harknett

Respondent: Living Sport Cambridgeshire and Peterborough Sports Partnership Ltd

Heard at: Cambridge Employment Tribunal (by CVP)

On: 1 July 2024

Before: Employment Judge Hutchings (sitting alone)

Appearances

For the Claimant: did not attend

For the Respondent: Miss Sheerin, counsel

JUDGMENT

The claim is struck out.

REASONS

1. Oral reasons for the decision to strike out the claim were given at the hearing. However, mindful of the following, I record the written reasons for that decision below:
 - a. The claimant did not attend the hearing;
 - b. The claimant is not legally represented; and
 - c. At the hearing the respondent made an application for a costs award.
2. By claim form dated 15 September 2023 the claimant claimed breach of contract relating to a failure (he says) by the respondent to assign him work during a period of garden leave. He confirms that the claimant paid his notice pay in full. By Grounds of Resistance (undated but filed with the

Tribunal in time) the respondent submits that the Tribunal does not have jurisdiction to hear the claim as, by his own admission, the claimant has not suffered financial loss. Early conciliation started on 6 July 2023 and an ACAS certificate issued on 1 August 2023. A final hearing was listed for 1 July 2024, with directions ordering the parties to disclosure documents and file witness statements ahead of that hearing.

3. On 16 May 2024 the respondent applied to strike out the claim on the basis the Tribunal does not have jurisdiction to hear it, as by his own admission the claimant has not suffered any financial loss.
4. By a letter dated 11 June 2024 the Tribunal gave the claimant an opportunity to make representations or to request a hearing, as to why the claim should not be struck out on the basis the Tribunal did not have jurisdiction to hearing, the claimant having stated in his claim form that he has suffered no financial loss as a result of the alleged breach of contract. The claimant did not respond to the strike out warning.
5. On 27 June 2024 at 20:39 the claimant wrote to the Tribunal stating he would not be attending the final hearing “due to work commitments”. He did not do so. As required by Rule 47 of the Employment Tribunals Rule of Procedure 2013, which applies where a party does not attend the hearing, at the start of the hearing the Tribunal clerk telephoned the claimant, who again confirmed he would not be attending due to work commitments. I am satisfied that I have considered the available information, and made all enquiries that may be practicable, about the reasons for the claimant’s absence. On these grounds alone, I consider it fair and just to dismiss the claim.
6. However, mindful of the respondent’s application to strike out the claim I considered the evidence before me. In his claim form the claimant accepts he has not suffered financial loss as a result of the alleged breaches of contract. The claimant has not complied with the Orders of the Tribunal. In not replying to the Tribunal’s strike out warning, and not attending the final hearing, he is not actively pursuing his claim.
7. Therefore I decided to strike the claim under Rule 37 of the Employment Tribunals Rules of Procedure 2013 for the following reasons:
 - a. There is no reasonable prospect the claim will succeed as the Tribunal does not have jurisdiction to consider claims for breach of contract where the claimant has not suffered financial loss;
 - b. The claimant had not complied with the Order of the Tribunal dated 28 March 2024;
 - c. The claim is not actively pursued; and
 - d. The claimant has failed to make representations in writing why this should not be done and did not attend the hearing.

8. The claim is therefore struck out.
9. At the hearing the respondent made an application for costs. I have sent a case management order to the parties with directions for this application.

Employment Judge Hutchings

1 July 2024

JUDGMENT SENT TO THE PARTIES ON

22 July 2024

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FOR THE TRIBUNAL OFFICE