



EMPLOYMENT TRIBUNALS

Claimant: Mr T M Brook

Respondent: Asda Stores Ltd

HELD by CVP in Leeds

ON: 26 June 2024

BEFORE: Employment Judge Shulman

REPRESENTATION:

Claimant: Did not appear and was not represented

Respondent: Mr S Gittins, Counsel

JUDGMENT

The claimant's claim of unfair dismissal is hereby dismissed on non-attendance by the claimant.

REASONS

1. This hearing today was fixed on 25 March 2024 and it was made clear that there would be a video hearing.
2. The claimant sent an email on 26 June 2024 at 00.23. He stated that as he was 67 and did not have any type of computer or anyway he would not know how to activate it he really did not know how to proceed as it was all confusing to him due to stress and anxiety coupled with his depression. He also put in his email matters which were not relevant to his application which presumably was for a postponement.

3. It was noted that the claimant was able to use email and that he was directed to use the helpline, being given the telephone number and was told that the hearing would proceed.
4. At 10.00am the claimant did not appear and the clerk telephoned him but after one minute the call went direct to voicemail. The clerk left a message asking the claimant to contact him if he was having difficulty contacting the helpline or whether he was going to participate in the hearing. At 10.30am there was still no response from the claimant.
5. The original purpose of the hearing was to consider whether the claimant's claim was presented outside the time limit (see sections 111(2)(a) and (b) of the Employment Rights Act 1996) and if so should it be dismissed on the basis that the Tribunal had no jurisdiction to hear it.
6. It was obvious that the claimant was out of time. He was dismissed on 25 November 2022. He entered early conciliation on 23 February 2023 and received his early conciliation certificate on 6 April 2023. He therefore had to issue his claim by 6 May 2023 but he did not present it until 16 May 2023 and was therefore 10 days late.
7. Having regard to this, consideration should and would have been given as to whether it was not reasonably practicable for the unfair dismissal complaint to be presented within the primary time limit.
8. By absenting himself from the hearing for whatever reason the Tribunal could not examine whether it was not reasonably practicable for the unfair dismissal complaint to be presented within the primary time limit.
9. That being the case the Tribunal had no alternative than to dismiss the claim. To adjourn the hearing would just add further cost and in particular for the respondent and bearing in mind the fact that the claimant's claim was presented out of time the judgment of the Tribunal is that the onus is fairly and squarely on the claimant and since the claimant had failed to attend this hearing there was no guarantee that he would not attend another and in the circumstances the claimant's claim for unfair dismissal is hereby dismissed.

Employment Judge Shulman

Date: 22 July 2024

Note - Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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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/>