



EMPLOYMENT TRIBUNALS

Claimant: Mr S Richards

Respondent: UPS limited

Heard at: Nottingham On: 25 September 2024

Before: Employment Judge M Butler (sitting alone)

Appearances

Claimant: No attendance

Respondent: Ms Amesu, Counsel

JUDGMENT

The claims of unfair dismissal and breach of contract are dismissed.

REASONS

Background

1. This hearing was listed as the final hearing of the Claimant's claims of unfair dismissal and breach of contract against the Respondent. The Claimant did not attend. At 02.57am this morning, the Claimant sent an email to the Tribunal, copying in the Respondent's solicitors, saying he had developed covid symptoms and would not be attending the hearing. He applied for a postponement of the hearing and asked what the next steps would be.

2. The final hearing was previously listed for 22 May 2024 but was postponed on the Claimant's application because he was not ready to proceed. This came after he had been given a strike out warning on 7 May 2024 by Employment Judge Welch as he had not complied with the Tribunal's case management orders.

3. The Claimant then continued his failure to comply with those orders and on 6 September 2024, on the application of the Respondent, I made an unless order on the grounds of that failure and because the Claimant was not actively

pursuing his claims. At this stage of the proceedings, the Claimant had not complied with the order to exchange witness statements. He then decided to rely on his written appeal against his dismissal as his witness statement.

4. Yesterday, the Claimant applied for permission for one of his witnesses to give evidence by video from Turkey. He was told in correspondence directed by Employment Judge Victoria Butler that this was not possible as Turkey had not given permission for evidence to be given by video from that country in judicial proceedings in the UK. The Claimant then asked for another postponement. The comments of the Respondent were requested and provided promptly and the application was refused with the Claimant being told the hearing would start at 10am this morning.

5. And then we received the Claimant's email applying for a further postponement. The timing of the email meant that it would not be seen by the Respondent or the Tribunal until around 9am this morning when Ms Amesu and the Respondent's witnesses were en route to or already at the hearing centre. The Claimant has provided no medical evidence of his symptoms and, given his history of non-compliance with case management orders and a failure to promptly actively pursue his claims, his email was received and interpreted with some circumspection. Indeed, in anticipation of the Claimant failing to attend the hearing today, the Respondent had put the Claimant on notice of its application for the costs of today's hearing if the matter did not proceed.

6. Unsurprisingly, Ms Amesu made an application for the claims to be struck out and for the Respondent's legal costs to be paid by the Claimant.

7. Rule 47 of the Rules of Procedure 2013 provides:

If a party fails to 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 reason for the party's absence.

8. I have considered the above information and the history of the Claimant's conduct of proceedings. He has consistently failed to comply with the Tribunal's case management orders in a timely way or at all. He has already been granted one postponement and, despite having some 10 weeks' notice of today's hearing, was clearly not prepared for it with the result that he applied for a further postponement and, when that was denied, at 02.57am this morning, he allegedly became ill. Given the Claimant's history in this matter, I conclude he is not actively pursuing his claims and, as a consequence, has put the Respondent to significant expense both financially and in terms of the time of its witnesses.

9. I did also consider striking out the claims under rule 37 due to the Claimant's lack of compliance with case management orders, his failure on numerous occasions to actively pursue them and his clearly unreasonable conduct of these proceedings. However, under rule 37(2), this would require the Claimant to be given a reasonable opportunity to make representations and involve yet further expense for the Respondent.

10. For the above reasons, I dismiss the claims. I could not deal with the costs application in the absence of the Claimant. However, I have made a case management order requiring the Claimant to show cause why costs should not be awarded against him.

Employment Judge M Butler

Date 25 September 2024

JUDGMENT & REASONS SENT TO THE PARTIES ON

.....27 September 2024.....

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FOR THE TRIBUNAL OFFICE