



# EMPLOYMENT TRIBUNALS

Claimant

Respondent

v

Miss A Hopper

KD Bros

**Heard: By CVP in Leeds**

**On: 27 October 2023**

**Before: Employment Judge JM Wade**

**Appearance:**

**For the Claimant: No attendance**

**For the Respondent: No attendance**

## JUDGMENT

The claimant's claim for unpaid wages, unpaid holiday and a failure to provide pay slips are dismissed pursuant to Rule 47 upon the claimant's failure to attend or be represented at today's hearing.

## REASONS

1 The claimant contacted ACAS for conciliation on 9 August 2023, a certificate was issued on 11 August, her claim was presented on 14 August 2023. She alleged a failure to pay two days' wages, a failure to pay holiday pay on termination of employment, and a failure to provide pay slips. The Tribunal served the papers and received no ET3 form of response from the respondent employer. A letter was sent following an email on behalf of the respondent. Yesterday a further email was sent setting out the substance of the respondent's response, but also, having a ring of truth about it, that a response form had been posted to the Tribunal, but not received.

2 Today was a final hearing. It is agreed by the parties that employment was very brief, from February 2023 until March 2023, or 1 or 2 April at the latest. The complaints brought by the claimant are brought outside the relevant three month time limits, working even from the latest possible date for an unlawful deduction, which would be the end of April.

3 Had the hearing proceeded today, I would have first heard from the claimant about reasonable practicability in presenting the claim in time. If she had overcome that hurdle, I would have considered whether to treat the respondent's correspondence as an application for an extension of time to present its response

form on the basis of the original having been lost in the post. I would then have considered whether to permit that application, and if granted, whether to list a new hearing date, with appropriate notice to both parties, or whether the matter could be dealt with on the papers.

4 In all these circumstances, there are difficulties for the claimant, and delay. Time heals all wounds, but time does not heal justice. It is contrary to justice.

5 Today Mr Donnelly our clerk telephoned both the claimant and the respondent, who had both been sent a notice and connection details for the hearing. He was unable to make contact. I therefore have to decide whether to proceed with this hearing and determine the limitation issue in the absence of the claimant, or whether to postpone and hope that clarity can be secured at a postponed hearing. Or thirdly I consider whether to dismiss the claims today pursuant to Rule 47.

6 Deciding the limitation issue on merit, without the claimant's evidence is problematic, but I also consider a further postponement incompatible with fairness for the respondent in this case. Given the shortness of the employment, and the wages and holiday pay claimed, the sums in dispute are likely several hundred pounds, but no more, and the correspondence indicates that all steps have been taken to provide pay slips.

7 I have no information about why the claimant has not attended, nor indeed the respondent. In deciding the best course in the interests of justice, I bear in mind that an unfortunate event may have arisen for the claimant to prevent her attending today, or that she may have had connection difficulties. However, I also bear in mind that aspects of the respondent's potential defence involve allegations which are difficult for the claimant, and that she reports in her claim form that she has secured new employment.

8 There has been no postponement application. If there is a very good reason for the claimant's failure to attend and/or to request a postponement, then she can apply to reconsider this judgment. She will also, however, need to explain how it is in the interests of justice to revoke a judgment in circumstances where the complaints have the time limit problems set out above.

9 For all these reasons I consider dismissal pursuant to Rule 47 is the just decision.

JM Wade

Employment Judge JM Wade

27 October 2023