



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 8000381/2024

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Held in Glasgow via Cloud Video Platform (CVP) on 15 October 20204

Employment Judge P O'Donnell

10 **Mr D Wilson**

**Claimant
No appearance and
No representation**

15 **Experience Scotland's Wild Ltd**

**Respondent
Represented by:
Mr J Stevenson -
Director**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

20 The judgment of the Employment Tribunal is that the claim is dismissed under Rule 27 of the Employment Tribunal Rules of Procedure on the basis that the Tribunal has no jurisdiction to consider the claim.

REASONS

1. The present hearing was listed to determine whether the claim should be dismissed under Rule 27 or whether it should be permitted to proceed.
- 25 2. The claimant did not attend the hearing. He had previously made an application for a postponement which was refused. He had informed the clerk that he was not intending to appear at the hearing.
3. The Tribunal exercised its power under Rule 47 to proceed with the hearing in the claimant's absence for the following reasons:
 - 30 a. This is not a case where the claimant was absent due to an unforeseen event but, rather, he had made the conscious and deliberate decision not to attend.

- b. There has been correspondence from the claimant during the case management process setting out his position on the issue to be determined. There was not, therefore, an absence of material from which the Tribunal could understand the claimant's position.
- 5 c. The Tribunal considered that it would not be in keeping with the Overriding Objective for the hearing to be delayed. The respondent was entitled to know if the case against them was to proceed and there would be a prejudice to them in having the claim hanging over them for a further period.
- 10 d. The claimant, also, was entitled to know if his claim was to progress and there was a prejudice to him in having the determination of this issue delayed.
4. For all these reasons, the Tribunal decided to proceed. It would take account of what had been said in previous correspondence by the claimant. Mr
- 15 Stevenson, on behalf of the respondent, relied on what had been said in the respondent's previous correspondence and did not make any further oral submissions.
5. The Tribunal considers that a short summary of the case would assist in putting its decision into context:
- 20 a. The claimant lodged his ET1 claim form on 31 March 2024. The form states that he was employed by the respondent from 1-16 February 2024. At 8.1 of the form he has ticked the box "*I am making another type of claim which the Employment Tribunal can deal with*" and then sets out below that a description of the claim being pursued in the
- 25 following terms "*False job description no contract till I started company admitted false deception*". At 8.2 of the form, he provides a short narrative setting out his position that the role he was asked to perform by the respondent was not what had been described in the job advert, that he was not given any training and that the hours of work were
- 30 "*terrible*". The respondent lodged an ET3 response form disputing these allegations.

- 5 b. When the case came before an Employment Judge for Initial Consideration under Rule 26, the Judge considered it was not clear what claim was being advanced and whether it was one which the Tribunal had jurisdiction to hear. The Tribunal wrote to the claimant by letter dated 7 May 2024 asking him to set out the legal basis of his claim.
- c. By email dated 8 May 2024, the claimant confirmed that the claim he sought to pursue was one of fraudulent inducement setting out the basis on which he considered this arose in his case.
- 10 d. On 28 May 2024, the Tribunal issued a Notice and Order under Rule 27(1) that the claim would be dismissed on the basis that the Tribunal had no jurisdiction to hear a claim of fraudulent inducement. The claim would be dismissed on 5 June 2024 unless the claimant made written representations why it should not be dismissed by that date.
- 15 e. The claimant made such representations by emails dated 29 May 2024. This was supplemented by further emails of 4 and 10 June 2024.
- f. The Tribunal considered these representations and was not prepared to permit the claim to proceed on the basis of these alone. As required
20 by Rule 27(3), the present hearing was listed to determine the issue of whether the claim should be permitted to proceed or whether it should be dismissed under Rule 27
6. In considering the question of whether the claim should be dismissed, the Tribunal has taken account of what has been said by the claimant in the
25 correspondence described above.
7. There was correspondence lodged by the respondent on 14 October 2024 to which the claimant replied on the morning of the hearing. This correspondence related to various factual matters which are in dispute between the parties and are not relevant to the issue to be determined at the

present hearing. The Tribunal has not, therefore, taken account of what either party has said in that correspondence.

8. The Employment Tribunal is a UK tribunal created by an Act of Parliament (the current Act being the Employment Tribunals Act 1996). The Tribunal does not have an inherent power to resolve all workplace disputes but, rather, is given powers by various other Acts of Parliament to determine whether particular statutory employment rights have been breached.
9. The delict of fraudulent inducement is not a claim which the Tribunal has been given the power to hear by any Act of Parliament or secondary legislation. There is nothing in the correspondence from the claimant in which suggests that there is any authority that the Tribunal does have the power to hear such a claim.
10. The claimant does not assert any other breach of his rights which the Tribunal would have the power to hear. He does not, for example, suggest that any provision of the Employment Rights Act 1996 has been breached nor does he assert that he has been discriminated against contrary to the Equality Act 2010.
11. The Tribunal has borne in mind that the claimant is a party litigant and, whilst it is not the Tribunal's role to make a party's case for them, it has been careful not to read the ET1 and other correspondence in a formal or legalistic manner. However, even on the most generous reading of the papers, the Tribunal cannot identify any claim which it has the jurisdiction to hear.
12. In these circumstances, and for the reasons set out above, the claim is dismissed under Rule 27 on the basis that the Tribunal does not have jurisdiction to consider the claim.

Employment Judge: P O'Donnell
Date of Judgment: 15 October 2024
Entered in register: 16 October 2024
and copied to parties