



# THE EMPLOYMENT TRIBUNAL

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**BETWEEN:**

**Mr R Van Walwyk**

**Claimant**

and

**Knights Brown Construction Ltd**

**Respondent**

## **JUDGMENT**

The claim is struck out.

### **REASONS**

1. In December 2023 the claimant presented claims of unfair dismissal and unpaid holiday pay to the tribunal.
2. On 16 February 2024 notice of a hearing on 30 and 31 October 2024 to determine those claims was sent by email to both parties. Attached to that notice were case management orders with which both parties were required to comply.
3. On 2 April following an application by the respondent, the tribunal wrote to the claimant ordering him to write to the tribunal and the respondent by 29 April confirming whether or not he still wishes to pursue the claim, explain why he had failed to comply with the February orders and state the date by which he would be in a position to comply with them. No reply was received.
4. On 3 May following a request from the respondent for confirmation of whether the claimant had replied to the above order, the claimant emailed the tribunal enclosing a copy of his email to the respondent saying he had been away addressing family matters and had not had access to the documents required.
5. On 22 May the tribunal wrote to the parties asking the claimant to confirm within 5 days whether he had any additional documents relevant to the case

and if so to supply copies. No reply was received.

6. On 14 August the respondent applied for the claim to be struck out on the basis that there had been non-compliance with the February orders.
7. On 12 September 2024 the tribunal wrote to the claimant, again sent by email, ordering him to write to the tribunal and the respondent within the next 7 days confirming whether or not he was pursuing his case and warning him that if he did not reply to the tribunal would consider striking out his case on the basis that it had not been actively pursued. No reply was received to that letter.
8. The respondent wrote to the tribunal on 26 September confirming that the claimant had not replied and asking for the claim to be struck out. The claimant replied to that email stating that he had not received any correspondence regarding the case, and he had asked the respondent to provide it that day. The respondent replied to attaching evidence that they had complied with the February orders in March. The respondent renewed its application for the claim to be struck out and for the hearing to be postponed. Unfortunately, that application was overlooked by the tribunal.
9. The respondent indicated on 30 October that it was willing and able to attend the hearing. The claimant did not attend. The hearing was vacated.
10. In all the circumstances it is apparent that the claimant has failed to comply with the orders issued by the tribunal in February 2024 and has subsequently failed to comply more than once with requests to provide specific information by certain deadlines. It is appropriate to strike out the claim on the basis that it has not been properly and actively pursued. It was not possible for a fair hearing of the issues to be conducted at the time appointed by the tribunal for the hearing.

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Employment Judge Andrews  
Date: 30 October 2024

Judgment sent to the parties and entered in the Register on: 12 November 2024

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For the Tribunal Office:

P Wing