



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs M Everitt  
**Respondent:** Café 206  
**Heard at:** East London Hearing Centre (via CVP)  
**On:** 21 November 2024  
**Before:** Employment Judge Shergill (sitting alone)  
**Representation:**  
Claimant: Did not attend  
Respondent: Did not attend

## JUDGMENT

The judgment of the Tribunal is that:

1. The claim is dismissed under rule 47 of the Employment Tribunal rules of procedure, the claimant not having attended the final hearing.

## REASONS

2. The claimant claimed she was owed notice pay and holiday pay. There was a potential claim for redundancy under TUPE. She only claimed compensation which totalled £1152 in her ET1. Though I was unclear what the two weeks 'loss of earnings due to old owners telling new owners I had quit' could be claimed under, if she was claiming notice pay and redundancy. There was no separately claimed holiday pay claim so I do not know if that is what was meant or if she had failed to set out the holiday pay claim amounts.

3. On 26/07/24 the tribunal sent a 'notice of claim' by email to the claimant informing her of today's hearing, how to join the remote hearing and what other documents to send in. The claimant was ordered to do the following by 06/09/24:

'The claimant must send to the respondent a document setting out how much compensation for lost earnings or other losses they are claiming and how the amount has been calculated. The document must give details of the claimant's

income since their employment ended. If the claimant has been dismissed and wants to be reinstated or re engaged, they must say so.'

4. The respondent failed to file an ET3 in response and it appears the business has gone into liquidation. The claimant failed to comply with the order and she was chased by the tribunal on 30/10/24 by notification stating:

'I write in advance of the Final Hearing listed in this matter on the 21st of November 2024. It appears from reviewing the file that the Tribunal have not yet received a schedule of remedy, payslip, and a copy of the contract of employment. Can the claimant please provide these to the email address above on or before the 13th of November 2024.'

5. Neither party has attended the final hearing, which was arranged to take place on two days, virtually. I am satisfied they were both duly notified. I directed the clerk to contact the claimant and she rang the claimant three times but there was no answer. I am satisfied that was sufficient to show practicable enquiries having been made under Rule 47. There were no reasons for the claimant's absence, ongoing correspondent from her and there is limited evidence on which to make a reasoned substantive judgment to allow the claim.

6. I had considered whether to strike the case out under Rule 37(1)(c) or (d) for non-compliance with the orders, or because it had not been actively pursued. However, it was more appropriate to dismiss the claim under Rule 47 because the claimant had failed to attend. I weighed up the overriding objective to deal with cases fairly and justly. It was disproportionate to adjourn the case of the tribunal's own powers for the claimant to be given further time. That was because two attempts at obtaining the required information had failed, she had not answered her phone and not explained her absence. I proceed to dismiss the claim for non-attendance.

**Employment Judge Shergill**  
**Dated: 21 November 2024**