



EMPLOYMENT TRIBUNALS

Claimant: Miss J Li

Respondent: BITUMBA-DONZET, Janine

Heard at: East London Hearing Centre (by CVP)

On: 28 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 wages which had not been paid totalling £1,242. There were no documents to support the claim that she was entitled to be paid this sum of money e.g. contract, correspondence, payslips etc.

3. The claimant was notified the case was originally listed for 12 noon, and an updated notice was sent indicating this had changed to 2pm. No one attended for either party. The clerk was directed to ring the claimant, and a message was left that the hearing would start at 2.20pm. A further attempt was made to call her, and this time the call was answered but was put down when the clerk spoke. There was no attendance by 2.30pm.

4. The respondent failed to file an ET3 in response. However, I was not satisfied that the claim has been properly served. The ACAS certificate is issued in the name of JAOLA VAULT LTD. It is unclear why the claimant has issued proceedings against

a named individual only. I noted on Companies House this person is a director of that company. However, service has not been effective in my assessment as the failure to include the company name on the ET1 may have led to it not being received in the post.

5. Neither party has attended the final hearing, which was arranged to take place virtually. I am satisfied the claimant was duly notified, but have doubts about service on the respondent. I am satisfied practicable enquiries had been made to contact the claimant under Rule 47. There were no reasons for the claimant's absence, no ongoing correspondence from her and there is limited evidence on which to make a reasoned substantive judgment to allow the claim, even if the service issue was not live.

6. I had considered whether to strike the case out under Rule 37(1)(c) for non-compliance. 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 she had not answered her phone and not explained her absence. I proceed to dismiss the claim for non-attendance.

**Employment Judge Shergill
28 November 2024**