



EMPLOYMENT TRIBUNALS

Claimant: Mr R Leeman

Respondent: Kentish Plumbers

Heard at: London South by video **on:** 12 December 2024

Before: Employment Judge Corrigan

Appearances:

Claimant: No attendance

Respondent: Ms S Wood, Solicitor

JUDGMENT

1. The claims are dismissed under rule 47 following the Claimant's failure to attend the hearing.

REASONS

2. The claimant did not attend this afternoon's hearing after sending an email saying he had to go to work having only taken the morning off work. He requested an adjournment.
3. I accept that the letter of 5 December 2024 converting the final hearing to an open preliminary hearing stated that the hearing would commence at 10.00am and last for two hours. In the event the tribunal had to move the time to 2pm this morning. However I also note that the original notice, listing a 2-day final hearing for today and tomorrow, gave the standard warning that hearings sometimes start late.
4. Rule 47 states that where a party fails to attend the tribunal may dismiss the claim or proceed in their absence provided I consider the reasons for the absence.
5. I do not criticise the claimant for not attending in the circumstances but my view is that in all the circumstances it was disproportionate to grant an adjournment and re-list the claim and that the most proportionate action was to dismiss the claim, as this is overwhelmingly likely to have been the effective outcome if the claimant had attended. It is overwhelmingly likely that the respondent's application for a strike out or dismissal of the claim would have succeeded.

6. I have taken into account the following. The claimant did not respond to object to the application to dismiss/strike out the claim based on the lack of 2 years' service for the unfair dismissal claim and all the claims being over 2 years out of time.
7. I have seen the agreed bundle and there is nothing to suggest that the claimant was planning to say anything that would negate the fact that he does not have the requisite 2 years' service to claim unfair dismissal. There is no suggestion he is asserting an automatic unfair reason.
8. With respect to the timing of the claim. The claimant contacted ACAS promptly and told the respondent in November 2021 that he had started his claim. His ACAS certificate is dated 17 December 2021. There is nothing in the bundle and no witness statement has been sent to the respondent or tribunal for today's hearing explaining the reason for the delay of 2 years. As the respondent says, it is likely that ACAS advised the claimant of the tribunal deadline when providing the certificate. It is difficult to think of any explanation that would mean that, having not put the claim in in time, it was put in within such further period as was reasonable.
9. I considered in the alternative dismissing the claim under rule 27 as there had been no previous initial consideration of the claim and response on file. This rule enables the tribunal at the first consideration of the claim and response to dismiss a claim on a particular date where it considers that it has no jurisdiction to consider the claim because it is out of time or otherwise, or it has no reasonable prospect of success.
10. The dismissal takes effect unless before the given date, the claimant presents written representations explaining why the claim should not be dismissed. However I decided that this was not necessary as there is nothing in the agreed bundle, or in response to the respondent's strike out application, suggesting the claimant has any representations to make that would alter the view that he does not have 2 years' service to claim unfair dismissal, that he does not rely on an automatic unfair reason and his claims are excessively out of time.

Employment Judge Corrigan

Date: 12 December 2024

Sent to the parties on

Date: 18 December 2024

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