



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 8001540/2024

Closed Preliminary Hearing Held by CVP on 13th January 2025

Employment Judge McFatridge

Monique Stark

**Claimant
Not present or
represented**

Hoi Barbers Ltd

**Respondent
Represented by:
Ms Bowman, Solicitor**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

Following the claimant's failure to attend the hearing on 13 January 2025 the claim is dismissed in terms of Rule 47.

REASONS

1. The claimant submitted a claim in which she stated that she had been unlawfully discriminated against on the grounds of disability by the respondent. She stated that she suffered from anxiety. She referred to a number of incidents where she stated she had suffered panic attacks. She

stated that the respondents had been extremely happy with her performance. She then stated that the claimant's Manager had come along and dismissed her out of the blue. She said that the claimant's Manager had said to her "It's almost like my brain doesn't take in information". The respondent submitted
5 a response in which they denied the claim. They did not accept that the claimant was disabled at the relevant time. Their secondary position was that if she was then she had not advised them of any disability or impairment. They denied discrimination. In particular it was their position that the claimant had not been dismissed but had resigned. They denied that their manager
10 had used the words ascribed to her. A Preliminary Hearing was fixed for case management purposes. At the time fixed for the Hearing the respondent's representative was logged in and ready to proceed. The claimant did not log in. The clerk phoned the claimant and the call went to voicemail. A message was left on the voicemail. The clerk also emailed the
15 claimant. No response was received. Approximately 12 minutes after the hearing was due to start I commenced.

2. The respondent's representative indicated that it was their position that as matters stood there was insufficient specification of the claim to the extent
20 that it was very difficult for them to lodge any response. It had been their intention at the Preliminary Hearing to seek an Order for the claimant to provide Further Particulars of Claim. They would also have sought an Order for the claimant to provide medical evidence and further information in relation to her disability including a Disability Impact Statement. They would
25 also require her to provide information as regards the steps taken to minimise her loss and to obtain a note of the sums to be claimed. In response to a question from myself the respondent's representative confirmed that as yet there had been no direct contact between her and the claimant.

30 3. In terms of Rule 47 where a party does not appear the Tribunal may dismiss the claim or proceed with the Hearing in the absence of the party. Before doing so the Tribunal is required to consider any information which is available to it. First of all I should say that in this case I had no information before me as to the reason for the claimant's absence. Emergencies do

occur and it is entirely possible that that is what has happened in this case but I have no information before me in relation to that. For example there is no information in relation to the claimant telephoning the Tribunal to advise that she had a problem with logging in. I require to have regard to the documents before me which essentially comprise the ET1 Statement of Claim and the ET3 Statement of Response. I have to say that I agree with the respondent's representative that as it is presently set out the claim is insufficiently specified. Further information would be required before the Tribunal could properly deal with the claim. I did consider whether I could simply adjourn the hearing and then make a written order for the claimant to provide the necessary information but in my view this would not be in line with the overriding objective. I would wish to have the opportunity of explaining in clear terms to the claimant why this additional information is required and the level of detail which is required going forward. I believe that without this, making orders is unlikely to help. The claimant does not have sufficient qualifying service to make a claim of unfair dismissal. While she has ticked the box for disability discrimination it is not actually possible from the ET1 to determine precisely which specific types of discrimination are alleged. If the claim was not dismissed then another case management preliminary hearing would need to be fixed.

4. In all the circumstances I decided that the appropriate way to proceed in this case was to dismiss the claim. It transpires that there was a good reason for the claimant being unable to attend the Hearing then it is entirely possible for the claimant to submit an application for reconsideration of this decision and that will be dealt with by the Tribunal in due course. I should say that I advised the respondent's representative that if this was a genuine emergency situation then it is highly likely that such a reconsideration would be granted. For the moment however based on the information which I have to hand it does appear that the appropriate way to proceed is simply to dismiss the claim. Accordingly that is the Judgment which has been made.

Date sent to parties

15/01/2025