



EMPLOYMENT TRIBUNALS

Claimant: Ms. B. Lundberg

Respondent: Unikey Limited

Heard at: Watford

On: 8 January 2025

Before: Employment Judge S. Matthews

Representation

Claimant: In Person

Respondent: Did not attend

JUDGMENT

The claim is dismissed.

The Tribunal has no jurisdiction to hear the claim as the parties have entered into a COT3 settlement agreement.

REASONS

Procedural Background

1. The claimant brought proceedings against the respondent in relation to unpaid wages. The claim form was received by the Tribunal on 23 January 2024. The claim was accepted by the Tribunal on 29 April 2024. The response was submitted on 25 May 2024. Notice of Final hearing (scheduled for 4 November 2024) and other orders were sent to the parties on 23 July 2024.
2. On 24 July 2024, the Tribunal received an email from ACAS with a COT3 reference R291160/23. It said there had been a settlement on 4 March 2024 (that is after the claim had been presented, but before it was accepted).
3. The response submitted on 25 May 2024 made no mention of a settlement.
4. As a result of the ACAS email, an administration decision was made to send a letter to the parties headed 'Settlement of Claim', which informed the parties that the hearing on 4 November 2024 would not take place.

5. The parties both replied on the same day to say that there had not been a settlement. Employment Judge Quill decided to reinstate the hearing on 4 November 2024 because both parties had indicated that there had not been a settlement.
6. The claimant explained today that she was under the impression that there had not been a settlement because she had not been paid the sum agreed under the settlement by the respondent. Mr. K. Shaker, director of the respondent, had informed ACAS that he wanted to re-negotiate the settlement and had informed the enforcement group, HCEG, that he was going to apply for a stay. As the tribunal proceedings appeared to be continuing, the claimant thought Mr. Shaker must have been successful in obtaining a stay of enforcement. The fact that the tribunal claim had a different reference number to the ACAS reference number was also confusing.
7. On 17 October 2024, Mr Shaker sent an email to the Tribunal, copied to the claimant, with attachments. One is "Defence Statement" and is dated 15 October. The other is "request for cancellation of hearing" and is undated. Each of them refers to the COT3 agreement. The latter document states that the respondent was willing to abide by (some of) the terms of the COT3 agreement, provided (some of) the terms of it are varied.
8. The Tribunal hearing was relisted for 10am today and the respondent was ordered to file evidence of the COT 3 agreement by 15 November 2024. In a covering letter sending the COT3 agreement the respondent's representative submitted that the COT3 was in full and final settlement of the claim and asked the Tribunal to dismiss the claim.
9. Employment Judge Quill decided to convert the final hearing due to take place today to a preliminary hearing, in public, to decide whether (a) there is a binding COT3 agreement between the parties and (b) if so, whether it has the effect of bringing the entirety of claim number 3300946/2024 to an end.
10. The claimant attended the hearing. The respondent did not. On the day before the hearing Mr. Shaker of the respondent emailed the Tribunal stating that 'due to a family emergency, I must travel tomorrow and will be unable to attend the scheduled hearing.'

The Hearing today

11. While going through her papers during the hearing the claimant noticed that, by coincidence, correspondence from the enforcement group referred to the case being listed today in Willesden County Court at 11am. The claimant had not received notice of this from the court itself and when first seeing the reference to a hearing today had assumed it referred to the tribunal hearing. I gave the claimant time during the hearing to telephone and email the court to explain the situation.
12. The COT 3 agreement records that full and final settlement of the claimant's tribunal claim against the respondent was agreed on 4 March 2024. I am satisfied

that the COT 3 was properly entered into on 4 March 2024 and as at that date the tribunal claim should have been withdrawn or dismissed. Unfortunately, there was a delay by ACAS in notifying the Tribunal and the respondent continued to seek to re-negotiate the terms of the settlement. The claimant did not agree to a re-negotiation and attempted to enforce the terms of the COT3 agreement but, for reasons unknown to her, a stay was ordered and the matter transferred to Willesden County Court for a hearing which was due to take place today.

Decision

13. The claim is dismissed. I am satisfied that an ACAS conciliated settlement was reached on 4 March 2024 relating to this claim. As the case has been settled by way of an ACAS conciliated settlement the Tribunal has no jurisdiction to decide it.

Employment Judge **S. Matthews**

8 January 2025

Date

JUDGMENT & REASONS SENT TO THE PARTIES ON
25 January 2025

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FOR THE TRIBUNAL OFFICE

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Recording and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>