



EMPLOYMENT TRIBUNALS

Claimant

Mr M Sarwar

v

Respondent

Home Office

Heard at: Watford Employment Tribunal (via cloud video platform)
On: 9 and 10 January 2025
Before: Employment Judge French
Mr D Sutton
Ms A brown

Appearances

For the Claimant: no attendance

For the Respondent: Mr Beever, Counsel

JUDGMENT

1. The claim is dismissed pursuant to rule 47 of the Employment Tribunals Rule of Procedure 2024.

REASONS

1. The Tribunal provide these written reasons on their own initiative. Oral reasons were given at the hearing however the claimant was not present to hear them, and the Tribunal consider it important that the claimant know the reasons why the claim was dismissed.
2. Rule 47 of the Employment Tribunal Rules of Procedure 2024 states as follows:

If a party fails to attend or to be represented at the hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it shall consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence.

3. The claim was listed before the tribunal for a final hearing between 9 January 2025 and 17 January 2025. The claimant did not attend the hearing on 9 January 2025, that being the first day of the final hearing. On 8 January

2025, the claimant's lay representative sent an email to the Tribunal as follows:

'It is with regret that having spoken to Mr Sarwar, given his ongoing health issues, and both memory and breathing difficulties, that the tribunal due to start is not a viable option. I appreciate that this will not be well received by the respondent and I can only apologise, however we are now clear that his memory issues will make conducting the tribunal impossible in the circumstances. Mr Sarwar has said that he hopes that this will improve in 6-12 months but that is a hope rather than an expectation.'

'We will therefore request a delayed hearing, as there is no way we can practically conduct the hearing as planned.'

4. The Tribunal did not receive any separate application to adjourn the hearing and were unclear whether the email dated 8 January 2025 was intended to be such an application.
5. On 18 December 2024, in response to a failure to complete the pre-hearing checklist, the claimant had provided medical evidence to the tribunal which outlined a number of medical conditions and the claimant's symptoms as a result. This evidence did not however suggest that the claimant was unable to attend or participate in a final hearing.
6. In light of that information, the tribunal made directions for the claimant which were sent by way of letter dated 9 January 2025 at 1.19pm. The directions were as follows:

The tribunal therefore orders the claimant to provide the following information by 12 noon on 10 January 2025 when the final hearing will resume:

1. *Whether the email dated 8 January 2025 is an application to adjourn the final hearing and/or to provide any such application that the claimant wishes to make.*
2. *Medical evidence in support of that application which specifically deals with the following:*
 - a) states whether or not the claimant is fit to attend and/or participate in the hearing*
 - b) if the claimant is unfit, states when it is expected that he would be fit*
 - c) provides comment, if able to do so, on whether there is likely to be an improvement in the claimant's health in the next 6 to 12 months such that he may be able to participate in a hearing at a later date.*
3. *If it is not possible to provide the above evidence, an explanation as to why. The tribunal also invites the claimant's lay representative Mr Taylor to attend the hearing on 10 January 2025 to provide any additional information that he may wish to on the claimant's behalf.*
7. It is clear that this was received by the claimant because his lay representative replied forwarding a copy of an outpatient letter dated 16

October 2024. The outpatient letter confirmed the claimant had a renal transplant but did not assist in answering the directions of the tribunal. No other information was received by the claimant and the email attaching the medical information dated 16 October was blank by way of content.

8. The respondent confirmed that following the tribunal's directions they also wrote to the claimant indicating that they would oppose any application to adjourn and informing the claimant of the tribunal's powers under rule 47 above.
9. On 10 January 2025 neither the claimant nor his representative attended. The tribunal's clerk carried out a search for any additional correspondence from the claimant or his representative and none had been received.
10. The tribunal noted that there was a previous hearing on 29 February to 8 March 2024 which had been adjourned for two reasons, namely the claimant's ill health and issues surrounding one of the respondent witnesses having permission to give evidence from abroad. The complaint dated back to events from 2021 so there had already been delay in this claim.
11. The Tribunal were satisfied that the claimant had received notice of the hearing, it having been sent to him on 1 March 2024 via his lay representative as named on his ET1. The claimant had also referred to the hearing in their email dated 8 January 2025.
12. The respondent confirmed that the claimant had not provided any additional information to them than what had been provided to the tribunal namely the outpatient letter dated 16 October 2024.
13. The tribunal did not consider that it had a postponement application before it. In any event the tribunal would have refused such an application on the basis that it was not supported by medical evidence and the claimant's own position was that he did not know if his health would improve if a postponement was granted.
14. The claimant did not attend the hearing and did not provide the information as directed by the tribunal on 9 January 2025. If the claimant was unable to provide the information requested, the claimant was directed to provide an explanation as to why and he did not do so.
15. In all of the circumstances the tribunal therefore dismissed the claim owing to the claimant's non-attendance and pursuant to rule 47 above.

Approved by:

Employment Judge French

10 January 2025

ORDER SENT TO THE PARTIES ON
25 January 2025

FOR THE TRIBUNAL OFFICE

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/>