



# EMPLOYMENT TRIBUNALS

Claimant: Mr DC Borthwick

Respondent: Bidvest Noonan (UK) Ltd

## JUDGMENT

The claim is struck out.

## REASONS

1. The claimant did not attend the preliminary hearing on 13 February 2025. The tribunal's clerk sent a further email to the claimant, to which she did not receive a reply. She also attempted to call the claimant on the mobile telephone number which he had provided on the claim form but was unable to make contact, with the phone stating "user unavailable". The respondent's representative said that, although she had recently taken over the handling of this case for the respondent and had sent an email to the claimant to confirm this, she had had no reply from him to that email and, as far as she was aware, none of her colleagues had had any contact from the claimant since the claim had been lodged. It therefore appeared that the claimant may have abandoned his claim.

2. I therefore made the order below, which was set out in the case management orders made at that preliminary hearing and separately highlighted in the covering email attaching those orders, which were both sent to the parties that same day, 13 February 2025:

*"It appears that the claimant is not actively pursuing his claim. The tribunal is therefore considering striking out the claim on the basis that it has not been actively pursued. **If the claimant is pursuing his claim, he must inform the tribunal and the respondent of this in writing no later than 27 February 2025. If he does not do so, it is likely that the tribunal will strike out his claim.**"*

3. No reply has been received from the claimant. I therefore find that the claimant has not been actively pursuing his claim.
4. There is nothing to indicate that the claimant will actively pursue his claim in future and the ongoing prejudice to the respondent in having to defend a claim that is not being actively pursued is considerable. For these reasons I exercise my discretion to strike out the claim in its entirety under Rule 38(1)(d) of the Employment Tribunal Procedure Rules 2024, namely that the claim has not been actively pursued.
5. The final hearing listed for 8-9 July 2025 is vacated and will not take place.

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Employment Judge Baty

Date: 28 February 2025

JUDGMENT SENT TO THE PARTIES ON

7 March 2025

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FOR THE TRIBUNAL OFFICE