



EMPLOYMENT TRIBUNALS

Claimant: Lorna James

Respondent: 1. Blue Heart Clinics Ltd
2. Mr Dell Henson-Baines

Heard at: Bury St Edmunds (by video)

On: 19 February 2025

Before: Employment Judge Graham

Representation
Claimant: Did not attend
Respondent: Ms A Akram, Litigation Executive

JUDGMENT

1. The claim is dismissed in full under Rule 47 Employment Tribunal Rules of Procedure 2024.

REASONS

1. The Claimant filed her ET1 claim form on 31 January 2024 and makes complaints of disability discrimination. An ET3 Response denying the claim was filed on 31 May 2024.
2. On 14 September 2024 a first private preliminary hearing for case management was listed to take place on 21 October 2024. That hearing was postponed upon the Claimant's application days before it was due to take place.
3. On 11 November 2024 a second private preliminary hearing for case management was listed to take place today at 2pm. The Claimant was sent a case management agenda but did not complete it. The list of issues

requires input from the Claimant so that the Respondents and the Tribunal can understand what it is that the Claimant seeks to complain about.

4. At today 12:45pm today the Claimant wrote to the Tribunal and advised:

Good afternoon

Sincere apologies for the short notice, but I am unable to attend today as I have been called to a family emergency.

Regards

Lorna

5. No other information was included as to the reason for the Claimant's non-attendance nor her future availability.
6. I discussed the chronology briefly with Ms Akram and asked her what her clients invited me to do. Ms Akram explained that they would be seeking a strike out of the claim on 14 days notice which I took to mean a strike out warning from the Tribunal on the basis of failure to actively pursue the claim.
7. The Overriding Objective of the Tribunal under Rule 3 provides:

"Overriding objective

3.—(1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.

(2) Dealing with a case fairly and justly includes, so far as practicable—

(a) ensuring that the parties are on an equal footing

(b) dealing with cases in ways which are proportionate to the complexity and importance of the issues,

(c) avoiding unnecessary formality and seeking flexibility in the proceedings,

(d) avoiding delay, so far as compatible with proper consideration of the issues, and

(e) saving expense.

(3) The Tribunal must seek to give effect to the overriding objective when it—

(a) exercises any power under these Rules, or

(b) interprets any rule or practice direction.

(4) The parties and their representatives must—

(a) assist the Tribunal to further the overriding objective, and

(b) co-operate generally with each other and with the Tribunal.”

8. Rule 38 provides:

“Striking out

38.—(1) The Tribunal may, on its own initiative or on the application of a party, strike out all or part of a claim, response or reply on any of the following grounds—

...

(d) that it has not been actively pursued;

...

(2) A claim, response or reply may not be struck out unless the party advancing it has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.”

9. Rule 47 provides:

“Non-attendance

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

10. I could not proceed in the absence of the Claimant as the Respondent and the Tribunal need to understand what it is that the Claimant seeks to complain about.

11. I formed the view that a further postponement and a strike out warning would be inappropriate. There had already been delays in this matter which had put the Respondents to expenditure of time and costs, and also the Tribunal as well having to postpone the last preliminary hearing and today’s hearing which other Tribunal users waiting in the queue could have made use of.

12. I was therefore not minded to grant a further postponement of this matter or to issue a strike out warning not least because the Claimant had been on notice of today’s hearing for three months and had provided no satisfactory explanation for her absence, and she had not given an indication that she wished for the matter to be re-listed or when. I also took into consideration that the Claimant had not in fact requested a postponement, she had simply said that she would not be attending due to an unspecified family emergency.

13. In such circumstances I considered that the appropriate way forward was to dismiss the claim under Rule 47 due to the Claimant's non-attendance and the inability to proceed with the hearing in her absence. This appeared to me to be in furtherance of the Overriding Objective of the Tribunal to deal with cases in a manner which is fair and just to both parties and to avoid the further unnecessary expenditure of time and costs for all concerned.

14. The claim is dismissed in full under Rule 47.

Approved by: Employment Judge **Graham**

Date: 19 February 2025

JUDGMENT SENT TO THE PARTIES ON
8 March 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/>