



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms M Nicholls

**Respondent:** Prepare4Care Limited

**Heard at: London South (remotely by CVP)**

**On: 4 November 2024**

**Before: Employment Judge Heath**

## **Representation**

Claimant: Did not attend

Respondent: Mr L Baker (Advocate)

# JUDGMENT

The Claimant's claims are dismissed in their entirety under Rule 47 Employment Tribunals Rules of Procedure 2013 on the claimant's non-attendance.

# REASONS

## **Introduction and background**

1. There was a hearing before EJ Yardley on 7 May 2024 which the claimant did not attend. The Judge postponed the hearing, in short, for medical reasons. The Judge made various orders at paragraph 15 of the order:
  - a. For the claimant to provide evidence to the respondent and the tribunal of her recent medical treatment and her ability to attend the hearing today and the prognosis for recovery. (I note she had earlier been ordered to do this previously by correspondence from the tribunal).
  - b. For the claimant to explain why she had not sent a schedule of loss or a witness statement to the respondent or the tribunal.
  - c. For the claimant to set out when she can comply with directions and reasons why an extension of time for compliance should be granted.
2. On 13 May 2024 the claimant and Mr Nicholls, who is in the tribunal file as her representative, emailed the tribunal making various complaints about the tribunal's poor treatment of the claimant, and favourable treatment of the respondent. The claimant said she would be well enough for a hearing in November 2024 but would

prefer the respondent to attend in person. Various complaints were also made about the respondent's conduct of the proceedings. Mr Nicholls also said it was wrong to "interrogate" the claimant about her condition.

3. On 18 October 2024 the respondent's representative emailed the tribunal to say that none of the directions in paragraph 1 above had been complied with, and he applied for unless orders.
4. Today's hearing was listed as a hybrid hearing. A judge had not been allocated to the hearing today and so the hearing did not start until 11.30 am. The respondent attended by video. There was no attendance by the claimant. The clerk telephoned the claimant. She explained that she had been unwell and had radiotherapy. She did not feel well enough to attend today. Mr Nicholls then spoke. He said how the claimant had been treated badly and that he had sent emails to the tribunal. The clerk encouraged the claimant to attend, but the claimant did not wish to attend.
5. At the start of the hearing I explained to Mr Baker what inquiries the tribunal had made. He wished to apply to strike out the claim initially. I explained the provisions of Rule 47 Employment Tribunals Rules of Procedure 2013. Mr Baker then urged me to dismiss the claim. He said that the claimant had protracted the proceedings, albeit that this was not always her fault. He said that at the last hearing the claimant had just come out of hospital. The respondent had sought a schedule of loss and witness statement but the claimant has not provided these. The claimant and Mr Nicholls have failed to engage on this issue and have sent correspondence that has appeared abusive. The claimant has not done anything to progress her case and this is the 3<sup>rd</sup> time that the respondent has had to attend the tribunal. This has been costly to the respondent. Although this is not an application to strike out under Rule 37 for failure to actively pursue claim, or breach of an order, the ground for this application would exist at present.

## The law

6. Rule 47 Employment Tribunals Rules of Procedure 2013 provides 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.*

## Conclusions

7. This is the third hearing in this matter and the second the claimant has not attended. Her explanation for non-attendance, related to very serious medical issues, was accepted by the judge at the last hearing. The judge did, however, make case management orders obliging the claimant to provide medical evidence to support her application and to indicate whether she would be fit to attend this hearing. The judge made further orders for the claimant to provide a schedule of loss and witness statements, and to apply to extend timescales.
8. It appears that the claimant has not engaged with these orders. This makes me accept the respondent's submissions that the claimant has not engaged with the respondent in preparing this case. The case management orders are straightforward and oblige the claimant to set out what she claims and to put her evidence in support of her case into a witness statement. If she was in difficulty in doing this, she could have explained this and applied for more time.
9. In circumstances where the claimant has taken virtually no steps to prepare her case and does not appear to be productively engaging with the claimant or with

litigation in general, I conclude that it is not in the interests of justice to postpone further (I note that the claimant was not even urging me to do that). The claimant has been given ample opportunity to prepare her case or to explain why she cannot do so. The inquiries made by the clerk have not been fruitful despite the clerk encouraging the claimant to attend. I conclude that it is now in the interests of justice to dismiss this case as the claimant is not taking any active steps to advance it.

**Employment Judge Heath**

**4 November 2024**

**JUDGMENT & REASONS SENT TO THE PARTIES ON**

**24<sup>TH</sup> November**

**O.Miranda  
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.

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**Recording and Transcription**

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