



EMPLOYMENT TRIBUNALS

Claimant: Mrs K Seton Rogers

Respondent: Aerospace Metrology & Electromechanical Calibration Limited

RECORD OF A HEARING

Heard at: Newcastle (by Cloud Video Platform) **On:** 19 March 2025

Before: Employment Judge T Brown

Appearances

For the claimant: Not present or represented
For the respondent: Mr L Baker, consultant

JUDGMENT

- (1) Upon the claimant's failure to attend the final hearing, the claim is dismissed under rule 47 of the Employment Tribunal Procedure Rules 2024.

REASONS

Remote hearing

- (2) This was listed as a remote final hearing (by video) of the claimant's claim. I had a 72-page bundle and a witness statement for Mr Steve Oxborough from the respondent and no papers from the claimant.
- (3) This matter has previously been listed for a final hearing on 19 August 2024, and 15 November 2024, as well as today.
- (4) The original notice of hearing, dated 18 June 2024, included case management orders, which required the claimant to send "a document setting out how much s/he is claiming and how the amount has been calculated" and "copies of all supporting documents and evidence". The respondent was also required to send documents and evidence, 6 weeks from the date of the 18 June 2024 letter, and

the parties were required to produce a bundle and witness statements for the final hearing.

- (5) The claimant applied for the 19 August 2024 hearing to be postponed, and it was duly postponed by Employment Judge Loy on 15 August 2024. Employment Judge Loy said that the “Claimant must make arrangements to guarantee her attendance at the re-listed hearing on or after 1 November 2024”.
- (6) By a notice of hearing dated 17 August 2024, the claim was relisted for a final hearing on 15 November 2024, with a time allocation of 2 hours. The claimant attended that hearing (which was before Employment Judge O’Dempsey) and Mr Baker represented the respondent.
- (7) Employment Judge O’Dempsey said that no directions had previously been given in the claim (it may be that he was unaware of those in the original notice of hearing) and noted that the respondent said that it was not fully aware of the extent of the claimant’s claim (though it is not apparent what steps the respondent had taken to seek to establish that, or to cooperate with the claimant in respect of the case management orders which the Tribunal had previously made and which applied to the respondent as much as to the claimant).
- (8) Employment Judge O’Dempsey adjourned the hearing again, to today, and made case management orders.
- (9) Mr Baker told me that the claimant had been present when the final hearing was re-listed for today (and therefore knew about that date then); that gave the claimant about 4 months’ notice of the final hearing.
- (10) The respondent has duly provided documents and a witness statement. It did not appear that the claimant had provided documents or a witness statement (I was told by the Tribunal administration that nothing had been sent to the Tribunal by the claimant) and Mr Baker said that there had been no compliance by the claimant with the case management orders made by Employment Judge O’Dempsey.
- (11) It appears that on 18 March 2025, the Tribunal contacted the parties to warn them that the hearing might not be able to proceed as listed because of a lack of judges. I was assigned to the case, from outside the region, on the afternoon of 18 March 2025, and I note that the Tribunal wrote to the parties at 2:22pm on 18 March 2025, saying:

Please note that further to our conversation this morning, the Tribunal has managed to secure an Employment Judge to hear your claim tomorrow.

Attached is your joining link details.

- (12) At 6:33pm on 18 March 2025, the claimant emailed the Tribunal copying the respondent, saying:

Good evening All.

I must apologise but I have not been able to get out of work tomorrow.

May I please for this to be rescheduled? [sic]

Have a great evening,

- (13) This email—sent after business hours—was first brought to my attention at 09:17am on 19 March 2025. I asked my clerk to contact the claimant, to see if the claimant could at least join for the start of the hearing, so that her application for a postponement (and the state of the case, given the apparent failure by her to comply with case management orders) could be discussed (and so that if postponed, a convenient date for the relisted hearing could be identified). I was told by my clerk that a call she had made to the claimant had gone straight to voicemail, and that a message had been left, asking the claimant to join the hearing, even if only briefly.
- (14) I delayed the start of the hearing to 10:25am (the respondent's witness having joined at about 10:07am), in the hope that the claimant would receive the message and join the hearing. The claimant did not attend then or during the hearing which then followed and lasted until 10:33am.
- (15) I asked Mr Baker what compliance there had been by the claimant with the case management orders made by Employment Judge O'Dempsey on 15 November 2024. I was told that there had been no compliance by the claimant.
- (16) Mr Baker asked me to dismiss the claim under rule 47 of the Employment Tribunal Procedure Rules 2024. This says that:

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.
- (17) I decided to dismiss the claim.
- (18) I took into account that it was clear that the claimant had had notice of the hearing (hence her request to postpone it), and had failed to attend the hearing, without having received confirmation from the Tribunal that the hearing had been postponed (because there had been no such confirmation). So the claimant knew that the hearing was proceeding in her absence. I had caused all reasonable steps to be taken to contact the claimant today and encourage her to attend, even if only briefly.
- (19) I took into account that this was the third occasion on which this claim had been listed for a final hearing. The claimant had never been prepared for a final hearing to proceed and had failed to comply both with the case management orders which had originally been made and those which had been made by Employment Judge

O'Dempsey. These had been explained in reasonably clear and simple language, and it had been clear by when steps needed to be taken. I did not therefore have sufficient information from the claimant on which I could decide the claim in her absence because I did not even know how she quantified it.

- (20) The claimant had had a lot of notice of today's hearing, and it was unclear what steps she had taken even to try to attend the hearing (because she had not said). She had left it very late to seek a postponement of the hearing. Her request for a postponement of the hearing did not appear to take very seriously what she was asking for. She had failed to say when she would be available for a re-listed hearing and had failed to explain why she had not produced a witness statement or disclosed documentary evidence or quantified the value of her claim.
- (21) I therefore considered that if I did postpone the hearing, there was a very real prospect, given the conduct of the claim to date, that the claimant would not attend on a future occasion, and that she would still not have taken the steps necessary for a fair hearing of the claim. The claim had already taken up a very significant share of the Tribunal's limited resources and was putting the respondent and its representatives to wasted time and cost.
- (22) I took into account that from what I had read in preparing for the hearing, the claimant might well have valid criticisms of the respondent's handling of her wages, and there were real issues that would have needed to be resolved had the claimant properly prepared for and attended the hearing. This meant that there was a real prospect (I can put it no higher than that) that by dismissing the claim, I would be depriving the claimant of an effective remedy for a wrong which she had suffered, but I concluded that I would be unable to take effective steps to case manage the claim today in the absence of the claimant, or to list the case in a way which was likely to guarantee the claimant's future attendance at a final hearing, and given her repeated failures to take the steps required of her in the proceedings, I was not sufficiently confident that the case would be ready to proceed effectively at a future listed hearing. It was very surprising that the claimant, having brought the claim, was not taking it more seriously.
- (23) I took into account that it can be difficult for people to attend Tribunal hearings during working hours, and there are steps which the Tribunal can take to help, by listing hearings for the parties' convenience, and even by issuing witness orders, but the claimant had applied for a postponement after the end of normal working hours on the day before the hearing, and it was unclear whether she had sought to take holiday or take any other practical steps to enable her attendance, given the notice she had had of the hearing, and the number of times it had previously been postponed because of her inability to attend or her lack of preparation.
- (24) I therefore concluded that, in light of the claimant's non-attendance today, in the circumstances set out above, it was appropriate to dismiss the claim, and that no other outcome short of dismissing the claim would be appropriate. The claim could not succeed and lead to a judgment in the claimant's favour on the basis of the information I had, and it was no longer appropriate to re-list the final hearing

for a fourth time, in particular where the claimant was in breach of all of the Tribunal's case management orders to date.

Employment Judge T Brown

19 March 2025