



## **EMPLOYMENT TRIBUNALS (SCOTLAND)**

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**Case No: 8001540/2024**

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**Hearing Held in Chambers on 8<sup>th</sup> of April 2025**

**Employment Judge McFatridge**

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**Monique Stark**

**Claimant  
Written representations**

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**Hoi Barbers Ltd**

**Respondent  
Written representations**

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### **RECONSIDERATION JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

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Having reconsidered the matter in terms of Rule 68 of the Employment Tribunal Procedure Rules 2024 the Judgment of the Tribunal dated 15<sup>th</sup> January 2025 striking out the claim following the claimant's failure to attend the Hearing on 13<sup>th</sup> January 2025 is revoked. The case shall proceed to a case management Preliminary Hearing on a date to be fixed.

**REASONS**

1. The claimant submitted a claim of unlawful disability discrimination against the respondent. The respondent submitted a response in which they denied the claim. A Preliminary Hearing was fixed for case management purposes which was due to take place online on 13<sup>th</sup> January 2025. At the time fixed for the Hearing the respondent's representative was present and ready to proceed. The claimant's representative was not. The clerk telephoned the claimant and the call went to voicemail. A message was left on the voicemail. The clerk also emailed the claimant. No response was received. After a period of time I decided that, approaching the matter in terms of Rule 47 the appropriate course of action was to dismiss the claim.
2. Later on on 15<sup>th</sup> January and having received the strike out Judgment the claimant applied for a reconsideration. I decided that the application should not be refused on initial consideration and both parties agreed in due course that the matter should be dealt with on the papers. Both parties made full representations.
3. In her initial letter the claimant confirmed that the reason she did not attend was because she was distracted by her 12 year son's behaviour. She advised that he suffered from severe combined ADHD which he takes medication for. She said that he had recently changed medication which caused her difficulties. The claimant subsequently provided limited evidence in relation to her son's medication in the form of photographs of his pill boxes. She also provided some incomplete photographs of various letters from the NHS in relation to her son.
4. The respondent's representative in their submissions made the point that the claimant had not presented any evidence to suggest her son was diagnosed with ADHD or was prescribed medication as alleged or presented in the way described. There was no evidence that her son was exhibiting particularly bad symptoms on that occasion so as to prevent her from attending. There was no explanation why the claimant was unable to email the Tribunal in

advance of the Hearing to request a postponement. It was their position that the claimant should have been well aware of her son's school times ahead of the Hearing and in those circumstances it would have been prudent of her to seek a Hearing during times that her son was at school. It was also their position that the claimant's claim in any event had no reasonable prospect of success.

## Decision

5. I am required to approach matters in light of the overriding objective which requires me to do justice between the parties. The position here is that as previously indicated I agreed with the respondent's representative that the claimant's claim is insufficiently specified. Before the Tribunal would be in a position to deal with it further information would be required. As explained in my previous Judgment I consider that it will be necessary to have another Preliminary Hearing fixed so that the Tribunal's requirements can be properly explained to the claimant with a view to her providing additional particulars so as to enable the Tribunal to deal with the claim. There is no doubt that the claimant's failure to attend caused the respondent some considerable inconvenience and will have the effect of delaying the case for several months as well as leading to extra costs. On the other hand the respondents have already indicated their intention to seek expenses from the claimant in respect of the additional expense caused. I cannot prejudge the end result of any such Application for Expenses since the Tribunal will require to hear further detail including detail on the key issue as to why if the claimant was having the difficulties she indicates she did not either phone or email the Tribunal to let them know she would be unable to attend. Whether or not expenses are awarded in due course or not I note that in principle at least the inconvenience to the respondent could be dealt with by payment of expenses. On the other hand if the decision to dismiss is not overturned then the claimant loses the opportunity to pursue a discrimination claim which she at least feels strongly about. If her claim is well founded then she will suffer the injustice of not being able to obtain a remedy for the discrimination she suffered.

6. With regard to the reason given for non attendance I am prepared to accept the claimant's explanation. There is no doubt that the claimant could have provided much clearer copies of the various documents she has lodged  
5 which appear to relate to her son. I am however prepared to accept her basic position that her son has behavioural difficulties and that he was manifesting these difficulties at around the time that the claimant was due to attend the Hearing and that this was the reason she did not attend. As noted above further details may require to be provided in order for the claimant to deal with  
10 any Application for Expenses made by the respondent.
7. In all the circumstances my view is that justice is best served by allowing the claimant's Application for Reconsideration and revoking the decision to dismiss the claim. A further Preliminary Hearing for case management  
15 purposes will require to be fixed. A date listing stencil should be sent to the parties with a view to identifying suitable times for this as soon as possible.
8. In the meantime it would undoubtedly be helpful if the claimant could consider the various criticisms of the specification of her claim made by the  
20 respondents in their pleadings and provide any further specification of the claim which she feels able to at this time. It will certainly help the next Preliminary Hearing go more smoothly. In addition to this the claimant may also wish to consider ensuring arrangements are in place so that her son's behavioural difficulties do not disrupt this Hearing.

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**Entered in register: 9 April 2025  
and copied to parties**