



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr A Funicello

v

Le Petit Moulin Traiteur Ltd

Heard at: Watford, via Cloud Video
Platform ("CVP")

On: 9 March 2026

Before: Employment Judge Hyams, sitting alone

Appearances:

For the claimant:

Not present or represented

For the respondent:

Mr Andrius Bareckas, Director, assisted by Ms Tatiana
Gudaviciene

JUDGMENT

The claimant's claims with the above case number (they are of detrimental treatment within the meaning of section 47B for the Employment Rights Act 1996, unfair dismissal within the meaning of both section 98 and section 103A of that Act, and for unpaid holiday pay under the Working Time Regulations 1998) are dismissed under rule 47 of the Employment Tribunal Procedure Rules 2024.

REASONS

- 1 In these proceedings, the claimant claims (it was possible to discern from the brief details of the claim and the compensation sought in the ET1 claim form) that he was dismissed unfairly, treated detrimentally within the meaning of section 47B for the Employment Rights Act 1996, and that when he was dismissed he was owed accrued holiday pay which he has not received. I inferred that the

claim was of unfair dismissal within the meaning of both section 98 and section 103A of that Act.

- 2 The case was listed for a preliminary hearing to take place via CVP on 27 October 2025. That hearing took place on that day. It was conducted by Employment Judge (“EJ”) Douse. Her record of the hearing was, however, not produced until 25 January 2026, and it was sent to the parties on 4 February 2026. What happened at the hearing was stated in the following paragraphs under the heading “Discussion”.

- “1. This case was listed for case management. Neither party had completed the case management agenda, and no documents were provided to me before the hearing.
2. Just after midday today, the Claimant emailed the Tribunal stating that the email with the notice of hearing had gone into the junk folder, and he was unable to attend the hearing today. In any event, he further indicated that he requires an Italian interpreter. None was booked for today’s hearing, as the Tribunal were not aware of this need. He asked for the hearing to be arranged for another day.
3. The Claimant had not copied in the Respondent to his email, so I read the email out to them. I explained that in some circumstances it is possible to go ahead and make some case management orders when one party does not attend, but having read the documents I did not think that could be done with this case. This is because the specific claims are unclear – the Claimant has ticked the box for whistleblowing but then gone on to request compensation for unfair dismissal and holiday pay – and further information is needed directly from him.
4. The Respondent understood the situation and indicated that they would require a Lithuanian interpreter in any event. They also requested that the next hearing be listed on a Monday to accommodate business needs.
5. I determined that a full day would be required to take account of the multiway translation that would need to take place.”

- 3 EJ Douse then listed what she referred to in the heading to the next section of the record of the hearing of 27 October 2025 as a “Further preliminary hearing”, but she then referred to it in the text immediately below that heading as a “final hearing”. However, it was clear from the rest of the record of the hearing of 27 October 2025 that the next hearing was to “take place remotely via video, on a date to be fixed by the Tribunal”. In any event, a notice of hearing was sent to the parties on 30 October 2025, and it stated that the hearing was to be a

“preliminary hearing for case management by video” and that it was to take place on 9 March 2026.

- 4 In her case management orders, set out below the case summary which I have set out in paragraph 2 above, EJ Douse included this order (it was number 4):

“Writing to the Tribunal

4. Whenever they write to the Tribunal, the claimant and the respondent must copy their correspondence to each other.”
- 5 On Friday 6 March 2026, at 12:24, the claimant emailed the tribunal (only; he did not copy the email to the respondent) in the following terms.

“Hi
Good morning unfortunately i can’t be available on 9 of March because I’ve to go to Italy for family health problems .
I’m really sorry let me know what I’ve to do to participate.
Regards
Angelo Funicello”

- 6 That email of the claimant was put before EJ French. At 14:43 on 6 March 2026, the tribunal emailed the claimant, copying it to the respondent, a letter in the following terms.

“Dear Claimant,

Employment Judge French directs me to write as follows:

Claimant’s email stating he will not be at the hearing is noted. The claimant does not suggest he makes an application to postpone the hearing but to the extent that he does, this is refused because it is not supported by evidence in respect of travel or health issues. The hearing is listed by video and there is no reason identified as to why the claimant cannot join the link from Italy. It is a case management hearing and so <https://www.judiciary.uk/wp-content/uploads/2025/06/Presidential-Guidance-Taking-oral-evidence-by-video-or-telephone-from-persons-located-abroad.pdf> will not apply as no evidence will be taken. The claimant is expected to attend and participate in absence of which the hearing may be dismissed or proceed without him in accordance with rule 47 of the Employment Tribunal procedure rules 2024.”

- 7 I conducted the hearing of 9 March 2026. The claimant was not present to attend the hearing at its intended start time of 10.00am. The respondent’s representatives had initially been present and ready to attend but they were put into the waiting room by the clerk and then apparently left that room. At 10:12,

the respondent's representatives attended in person (by video, of course) as I have stated above.

- 8 In the circumstances, rule 47 of the Employment Tribunal Procedure Rules 2024 applied. That provides:

“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.”

- 9 I discussed the case with Mr Bareckas and Ms Gudaviciene. What they said was consistent with what was said in the ET3 response form about the reasons for the claimant's dismissal.

- 10 In those circumstances, I decided that the claim should be dismissed on the basis that it was in the interests of justice to do so. That was because the claimant had now twice failed to attend a hearing by video, and the failure to attend the hearing before me was without any apparently good justification. In addition, it appeared to me that the claimant was in reality not pressing his claims.

Approved by Employment Judge Hyams

On 13 March 2026

JUDGMENT SENT TO THE PARTIES ON

16 March 2026

FOR THE TRIBUNAL OFFICE