



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr B Williams  
**Respondent:** Mr K Ward  
**Heard at:** Birmingham Employment Tribunal via CVP  
**On:** 16 May 2022  
**Before:** Employment Judge J Jones

## Appearances

For the claimant: No appearance  
For the respondent: No appearance

# JUDGMENT

The claim to holiday pay is struck out because it has not been actively pursued.

# REASONS

1. By a claim form dated 22 November 2021 the claimant brought a claim against the respondent for unpaid holiday pay. He gave a telephone number and email address on his claim form and indicated that he would be able to take part in proceedings via video. The claimant advised the Tribunal by ticking the relevant box on the claimant form that email was his preferred method to receive communication.
2. On 24 November 2021, the Tribunal acknowledged the claim, served it on the respondent, sent a Notice of Hearing by Video Conference for today's hearing and sent out standard directions requiring the claimant to serve a schedule of loss on the respondent and the Tribunal by 22 December 2021 and the parties to prepare witness statements and exchange documents by 12 January 2022.
3. The respondent served a response on 20 December 2021 stating that the claimant's employment had transferred to a new employer on 1 November 2021 and he was therefore not liable for any outstanding holiday pay.
4. By 22 December 2021 no Schedule of Loss had been received by the Tribunal and no extension of time requested by the claimant within which to serve it.

5. Employment Judge Battisby reviewed the file and directed that a letter be sent to the claimant on 20 January 2022 which asked for his comments on the Response and sought his view in particular as to whether he wished a transferee to be added to the proceedings. There was no response to that letter.
6. On 6 May 2022 the Tribunal sent to the claimant an email with the link for the video hearing and a further copy of the Tribunal's letter of 20 January 2022, asking him to reply by return to that overdue correspondence. Under the bold capitalised heading "**REMINDER**" the hearing date and time was reiterated and the claimant was required to provide a hearing bundle in hard copy by 9 May 2022 and in electronic form by 12 May 2022 for use at the hearing. The Tribunal attached the "guide to attending CVP hearings" and "guide to providing documents for hearings" to the email. There was no response to this correspondence.
7. By 10.35am today, neither party had attended the hearing. In view of the possibility of a problem with logging into the CVP platform, the Tribunal directed the clerk to make contact by telephone with both parties. The respondent's number rang out with no answer. The claimant answered and spoke to the Tribunal's clerk, advising her that he had received the acknowledgement of the claim and the case management orders but denying that he had received notice of any hearing, maintaining that he thought it was taking place on 22 May.
8. The claimant was telephoned a second time and asked whether he wished to attend the hearing today despite being late but he indicated that he was not able to do so.
9. In those circumstances, the Tribunal considered that the administration had more than discharged its duties to communicate clearly with the claimant in connection with these proceedings and that, in addition to the failure to attend the hearing today, the multiple failures to respond to directions, correspondence and requests for information constituted a failure to actively pursue the claim. In those circumstances, under the power derived from rule 37 Employment Tribunal Rules of Procedure and in the interests of justice, the Tribunal struck out the claim.

**Employment Judge J Jones**  
**16 May 2022**