



EMPLOYMENT TRIBUNALS

Claimant: Mr J Logan

Respondent: ISS Facility Services Limited

Heard at: Cardiff Employment Tribunal (as a hybrid hearing)

On: 19 February 2024

Before: Employment Judge E Macdonald

Representation

Claimant: Not present or represented

Respondent: Dr S Elves of Counsel

JUDGMENT

1. The claim is dismissed pursuant to r 47 of the Tribunal Rules of Procedure 2013.

REASONS

1. Because the Claimant did not attend today's hearing, and given that the result is that his claim is dismissed, I considered it appropriate to provide written reasons for the decision.
2. Rule 47 of the Employment Tribunal Rules of Procedure 2013 provides:

“If a party fails to attend or to be represented at the hearing, the Tribunal may dismiss the claim... 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.”
3. The power in Rule 47 must be exercised in accordance with the overriding objective in Rule 2. The overriding objective is to deal with cases fairly and justly. This includes avoiding delay and acting proportionately.
4. By a Form ET1 received on 6 October 2023 the Claimant brought claims which were insufficiently particularised, but Box 8.1 indicated claims of unfair dismissal; sexual orientation discrimination; and discrimination on the ground of gender reassignment. The Respondent resisted the complaints.

5. On 24 October 2023 a Notice of Preliminary hearing was sent to the parties, with that hearing being listed for 5 January 2024.
6. At the start of the hearing on 5 January 2024 the Claimant was not in attendance. The Tribunal clerk contacted him and reported that the Claimant had told him that he could not call into the hearing due to a lack of available data. He also reported that the Claimant had emailed the Tribunal about that.
7. EJ Jenkins considered the email, which said “*only just got this email I have limited call time unless they call me my credit will expire plus will I need WiFi? If so I'll have to call from town using retail store WiFi*”. EJ Jenkins noted that this suggested that the problem for the Claimant was not with his data but with his available call time.
8. The Record of Preliminary Hearing sent to the parties on 5 January 2024 noted the effect of Rule 47 of the Tribunal Rules; issued directions for the Claimant to provide further information relating to his claim; and emphasised at Paragraph 7 that

“The Claimant must note that it will be incumbent on him to ensure that he is able to dial into the re-scheduled hearing for the required period, and that a second failure to participate in the proceedings could lead to his claim being dismissed.”

9. Paragraphs 9.1 – 9.3 of the Order required the Claimant to provide further information about his claim.
10. The Claimant thereafter failed to provide the required information.
11. On 5 February 2024 EJ Harfield directed that the hearing be converted to a hybrid hearing and requiring the Claimant to comply with the direction to provide the further information required within 7 days.
12. On 8 February 2024 EJ Jenkins ordered the Claimant to provide the information required in the Case Management Order sent to the parties on 5 January 2024 and gave a deadline of 15 February 2024 for compliance.
13. By Friday 16 February the Claimant had still not provided the required evidence. The Respondent helpfully contacted the Claimant to ask whether he was attending Court on Monday 19 February. The Claimant’s responses included the following sent by e-mail timed at 4.46pm:

“I don’t really have anything to say other than what I’ve already said so attending the tribunal will be futile . . . UK is a left wing socialist country therefore I have little chance of succession in this case judge as you feel fit I’m not gonna waste my time with this discriminatory system no more and won’t bother attending the tribunal.”

14. The Claimant sent a further e-mail timed at 5.18pm which included the following:

“I’m discriminated against because of my non diverse identity society is constantly attacking the white heterosexual men we have no voice

to defend ourselves if we raise them we're labelled right wing bigots for that reason I am discriminated against because of my gender....A gay can get away with criticism of straights just like blacks can use the N word but whites can't and women can use derogatory terms against men... I won't be attending I know I have no possibility of success the judge can decide what he thinks is best I'm not gonna waste my time..."

15. Those e-mails were placed before the Tribunal shortly before today's hearing was due to start. The Tribunal's clerk e-mailed the Claimant to ask him whether he wished to proceed with his claim, and reminded the Claimant of the effect of Rule 47 and the potential consequences of non-attendance. The Tribunal's clerk also attempted to telephone the Claimant but there was no answer.
16. I considered it appropriate to wait until 10.30 a.m. in order to give the Claimant additional time to respond.
17. By 10.30 a.m. there was still no response from the Claimant. I directed that the remainder of the hearing would be in public pursuant to r 56 of the Tribunal Rules of Procedure.
18. The Claimant was clearly aware of these proceedings and had sent e-mails to both the Respondent and the Tribunal. He was clearly aware of today's hearing. I considered that the clear meaning of the e-mails cited above was that he had deliberately chosen not to attend. I was satisfied that all reasonable enquiries had been made about the reasons for the Claimant's absence. The Claimant had been warned in clear terms by EJ Jenkins in the Case Management Order sent to the parties on 5 January 2024 that a second failure to participate in the proceedings could lead to his claim being dismissed.
19. In the circumstances, I considered that dismissing the claim under Rule 47 would be proportionate. To do otherwise would only serve to increase delay and cost and would involve a disproportionate allocation of resources.
20. The claim is therefore dismissed.

Employment Judge **E Macdonald**

Date **19 February 2024**

JUDGMENT & REASONS SENT TO THE PARTIES ON 19 February 2024

FOR THE TRIBUNAL OFFICE Mr N Roche

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/>