



# EMPLOYMENT TRIBUNALS

**Claimant:**  
Mr J Stienen

v

**Respondent:**  
Opentext UK Ltd

**Heard at:** Reading

**On:** 3 April 2017

**Before:** Employment Judge Gumbiti-Zimuto

## Appearances

**For the Claimant:** No attendance or representation

**For the Respondent:** Mr L Anstis (Solicitor)

## JUDGMENT

1. The claimant's complaints of unfair dismissal and unpaid wages are not well founded and are dismissed. .

## REASONS

1. The respondent was represented by Mr L Anstis, solicitor. The claimant did not attend and was not represented.
2. In a claim form presented on 17 August 2016, the claimant made a complaint that he was unfairly dismissed and that the respondent had failed to pay him wages in the form of commission in the sum of £5,095.00. The respondent defended the claims.
3. The case was listed for hearing before the Employment Tribunal on 3 April 2017. The claimant did not attend the hearing. On 31 March 2017, the claimant was contacted by the Employment Tribunal staff and stated that he would not be attending the hearing. There is no record of what, if any, reason was given for the claimant's prospective non-attendance.
4. On 3 April 2017, the claimant was not present at 10.00 am, the time that the claimant's complaint was listed for hearing. The case was called on at about 11.10 am and the claimant was still not present.

5. The respondent was represented and although the respondent's witnesses were not present in the tribunal building, they were available nearby and were ready to give evidence in the case if required.
6. Rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 provides that:

“If a party fails to attend or to be represented at the hearing, the tribunal may dismiss the claim or proceed with the hearing in the absence of that party. 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.”
7. I have had an opportunity to consider the claim form and the response. I have also considered the contents of the Employment Tribunal file which is before me.
8. On 31 March 2017 at 12.59, the Employment Tribunal was provided with a copy of a witness statement purporting to be the claimant's witness statement. The document was sent as an attachment to an email from the claimant. Also attached were statements on behalf of the respondent purporting to be made by Elizabeth Driver, Ian Hill, Allan St Jago, Kavitha Muniandy, Mark Bridger and Nikki Sheppard-Hunt. I have had an opportunity to consider all these documents.
9. The claimant's complaint of unfair dismissal is based on a constructive dismissal. The claimant has not attended to give evidence.
10. The information before me from the claimant is not on its face likely to have been accepted by me as proving that he was constructively dismissed. From the claimant's claim form and the response, I consider that the following short passage from the claimant's statement encapsulates why the claimant resigned his employment:

“Eventually I lost my job because my grievance was not resolved and I could no longer sanction and undergo the misconduct of colleagues at work. I felt forced to quit and solve my grievance via the Employment Tribunal instead.”
11. I have considered the respondent's response and statements from the respondent's witnesses. From the information that is before me, I am satisfied that the claimant's complaints have not been proved. The claimant's witness statement as drafted in the absence of the claimant attending to give evidence in support of his draft does not satisfy me that the claimant was dismissed by the respondent.
12. As to the claimant's account about unpaid wages, the respondent denies that the claimant has not been paid the sums that he is due at the time that the sums were due to be paid. The claimant has not attended to give evidence in support of the sums that he claims he is owed.
13. Having considered the information which is before me, I therefore dismiss the claimant's complaints.

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Employment Judge Gumbiti-Zimuto

Date: ...7 April 2017.....

Sent to the parties on: .....

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For the Tribunal Office