



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr M McCallum

v

Mitchells and Butlers Retail Ltd

Heard at: Watford

On: 15 December 2017

Before: Employment Judge McNeill QC

Appearances

For the Claimant: not in attendance

For the Respondent: Ms Leach, Employee Relations Manager

JUDGMENT

Upon hearing from the respondent's representative and upon the claimant not attending nor being represented at the hearing:

The claimant's claim is dismissed.

Reasons

1. The claimant in this case was employed by the respondent as a Chef from 14 March 2017 to 12 July 2017.
2. His claim is in respect of notice pay and there is an additional claim set out although not particularised in relation to suspension pay.
3. The respondent defends the claimant's claims. In short, the respondent contends that the claimant was dismissed for unauthorised absences. It denies that it is liable to pay the claimant the sums which he claims.
4. The claimant was given notice of today's preliminary hearing by a letter dated 20 September 2017. He did not contact either the tribunal or the respondent to say that he would not be attending the hearing. He was contacted by telephone by the tribunal on 14 December 2017 at 11.35 am and was left a voice mail to which he did not respond.

5. Today, 15 December 2017 the respondent was contacted again by phone shortly after 2 pm but his phone was turned off. The respondent has had no communication from the claimant since the claim form was sent to it.
6. As background to this claim the respondent contends and its representative has confirmed today that the claimant was uncontactable by the respondent on a number of occasions. He failed to attend a meeting which he said he would attend on 28 June. He failed to attend a disciplinary hearing on 7 July 2017 and he failed to attend a rescheduled disciplinary meeting on 12 July 2017. The claimant appealed his dismissal but did not attend the appeal meeting. In short, his non-attendance at the tribunal today appears to be part of a pattern.
7. In all the circumstances, the tribunal concluded that it was appropriate to dismiss his claim pursuant to rule 47 of the Employment Tribunal Rules of Procedure. It was noted that the respondent's representative had attended the hearing, coming to Watford from Birmingham, in order to deal with the matters potentially before the tribunal.
8. If and insofar as it may be necessary to do so, I considered that this preliminary hearing should be treated as a final hearing and so ordered pursuant to rule 48 of the Employment Tribunal Rules of Procedure. Given the claimant's failure to attend the hearing and failure to communicate with the tribunal or indeed with the respondent in relation to his non-attendance, I was satisfied that the claimant would not be materially prejudiced by this change.

Employment Judge McNeill QC

Date: ...17/1/18.....

Sent to the parties on:

.....
For the Tribunal Office

Note

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.

