



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr Dattatreya Poduri

v British Airways Plc

Heard at: Watford

On: 13 November 2018

Before: Employment Judge Alliott

Members: Mrs Brodie
Mr Bone

Appearances

For the Claimant: Did not attend

For the Respondent: Mr S Purnell, Counsel

JUDGMENT

1. The judgement of the tribunal is that;
 - 1.1. All three consolidated claims are dismissed pursuant to rule 47 of the Employment Tribunals (Construction and Rules of Procedure) Regulations 2013.
 - 1.2. The claimant is ordered to pay the respondent costs assessed in the sum of £1,000.

REASONS

1. The full merits hearing of these actions were listed at a preliminary hearing on 5 April 2018. At that time the claimant had representation, namely Lifeline Advice. From the file that I have it is apparent that Lifeline Advice were still acting on behalf of the claimant as of 12 October 2018 as on that date an updated schedule of loss was emailed to the employment tribunal.
2. At 10 o'clock today, the claimant was not present. At 10:10 hours I caused the tribunal clerk to telephone Lifeline Advice in order to enquire as to what was going on. The clerk was only able to get through to an answerphone and a message was left.

3. In due course the tribunal clerk brought to the tribunal's attention an email timed at 18:45 on Thursday 8 November 2018 from Lifeline Advice which stated as follows: -

“Notice of change

Poduri v BA: Poduri versus British Airways

We withdraw from the case. Please contact the claimant directly in future.

Yours faithfully

Lifeline Advice.”

4. We heard from the respondent as to any information that they could provide to us. We were informed that at 18:43 hours on 8 November 2018 an email had been sent to the respondent's representatives. In that email Lifeline Advice indicated that they had no instructions for trial. However, they went on to indicate that the claimant was determined to pursue his case. The respondent asked if the hearing bundle had been passed to the claimant and they were informed that that had not happened yet but that the claimant would be picking it up on Friday 9 November.
5. From documents contained within the hearing bundle it was possible for the tribunal to discover a mobile telephone number and a landline home telephone number for the claimant. The tribunal clerk rang both numbers to no avail. The mobile number rang off after one ring and the home number made no connection at all.
6. The tribunal did not consider that there were any other reasonably practicable enquiries that could be made in the circumstances. Such evidence as the tribunal had before it appears to demonstrate that the claimant would have known about this hearing date and was in communication with his erstwhile representatives concerning obtaining the hearing bundle.
7. In all the circumstances and given the non-attendance of the claimant, the tribunal determined to dismiss the claim pursuant to rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

Costs

8. Following the indication that the claim was to be dismissed, Mr Purnell, on behalf of the respondent, made an application pursuant to rule 76(1)(a) for a costs order against the claimant on the grounds of the claimant's unreasonable behaviour in not attending. Mr Purnell limited the application to the sum of £1,000 in circumstances where the actual costs incurred by the respondent were considerably more than that in relation to attendance at this hearing alone.

9. Pursuant to rule 84 when considering a costs order the tribunal may have regard to the paying party's means and ability to pay before making such an order. However, that is not a mandatory requirement prior to making such an order.
10. We have very limited evidence of the claimant's means. He was going for a job that would have paid approximately £13,000 per annum. In the circumstances we have not taken into account the claimant's means as we have no direct evidence of the same.
11. In our judgment, prima facie and in the absence of any explanation it is unreasonable for the claimant not to turn up for this full merits hearing.
12. In the circumstances, in our judgment, the sum of £1,000 represents a fair and reasonable amount for the claimant to pay for such unreasonable conduct.

Employment Judge Alliot

Date: 11 December 2018

Sent to the parties on: 7 January 2019

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For the Tribunal Office