



# EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr G Barclay

v

Kier Limited

## JUDGMENT

The claimant's claim is struck out for non-compliance with the Unless Order made on 25 January 2019 and sent to the parties on 5 February 2019.

## REASONS

1. On 25 January 2019 I made an "Unless" Order in the following terms:

**UNLESS by no later than 4.00pm on 1 March 2019** the claimant informs the tribunal in writing of:-

- 1.1 The reason why he delayed presenting his claim until 23 June 2018; and
- 1.2 The nature and effects of the condition(s) he alleges amount to a disability; and
- 1.3 The illness that prevented him from attending the hearing today; then

His claim shall be struck out without a hearing or further consideration because is failing to actively pursue it.

2. I gave the following reasons:

- 2.1 The claimant's effective date of termination was 26 January 2018 but his claim was not presented until 23 June 2018, nearly three months after he was issued with an early conciliation certificate. That out of time point was intended to be considered at today's hearing, which he did not attend. He telephoned the respondent's solicitor's office shortly before it was due to start to say that he could not attend because of illness.

- 2.2 That is not his first default. On 8 September 2018 he was required to provide a disability impact statement and a doctor's report by 26 October, but has not provided either.
  - 2.3 I am concerned that the delay caused by the claimant's defaults may arise from his illness. He was dismissed because of his extensive absences, but the respondent makes no mention of their cause beyond referring to "illness". In this, I thought they were a little too coy, particularly as their representative was without instructions.
  - 2.4 I took the view the claimant should be given one last chance, and he should be under no illusion that this is not a last chance, to show that he wants to progress his claim. He, or someone on his behalf, should seek advice from CAB or solicitor if they are in any doubt about the seriousness of his position.
- 3. Neither the claimant nor anyone on his behalf has contacted the respondent or the tribunal office since the Order was made.
  - 4. I therefore strike out the claimant's claims.

\_\_\_\_\_  
Employment Judge Kurrein

Date: .....11 March 2019.....

Sent to the parties on: .....

For the Tribunal Office: .....