



## **EMPLOYMENT TRIBUNALS (SCOTLAND)**

5

**Case No: 4107703/19 Held in Aberdeen on 10 December 2019**

**Employment Judge J.M.Hendry**

10

**Mr A Simpson**

**Claimant  
Self**

15

**Whyte and MacKay Limited**

**Respondents  
Represented by:  
Ms K Norval,  
Solicitor**

20

### **JUDGMENT**

25

The claim is struck out under Rule 37 of the Rules contained in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 on the grounds of non-compliance with an Order of the Tribunal dated 20 August 2019 in terms of Rule 37(1)(c) and that the claim has not been actively pursued in terms of Rule 37(1)(d).

30

### **REASONS**

35

1. The claimant sought findings of unfair dismissal and disability discrimination against his former employers, the respondents. An ET1 was lodged on the 12 July 2018. On the 20 August the claimant was ordered to produce medical information to support his claim for disability discrimination. He did not do so.

**E.T. Z4 (WR)**

The case proceeded to a Preliminary Hearing to discuss case management on the 9 September. The claimant did not complete an Agenda document. The date of the hearing was intimated to both parties. The claimant did not participate nor did he give any warning or explanation for his non-participation other than he was having problems contacting his Trade Union representative.

5

2. On 1 October the Tribunal gave the claimant 7 days to contact the Tribunal on pain of the claim being struck out for not being actively pursued. The claimant once more said that he was having difficulties in contacting his Trade Union representative.

10

3. The claimant was asked for his availability to attend a fresh Preliminary Hearing. He emailed advising that he was working offshore. A further strike out warning was sent on the 11 October giving the claimant until the 18 October to set out the reasons why the claim should not be struck out on the grounds of the failure to obey the order and actively pursue the case. On the 17 October the claimant wrote to the Tribunal advising that he was having problems contacting his Trade Union, he was working and couldn't see his Doctor to get his medical files.

15

20

4. The claimant was given a further 14 days to make progress. The respondent's solicitors wrote to the Tribunal on the 24 October advising that the claimant had continued to fail to provide medical information or progress his claim.

25

5. In the circumstances the Tribunal gave the claimant a further 7 days to comment. No comments were received nor was any progress made. The Order of the 20 August was not complied with.

30

6. A further strike out warning was sent on the 14 November. The claimant did not respond.

5

10

<b>Employment Judge:</b>	<b>James Hendry</b>
<b>Date of Judgment:</b>	<b>11 December 2019</b>
<b>Date Sent to parties</b>	<b>13 December 2019</b>

15

20