



EMPLOYMENT TRIBUNALS

Claimant

Mr L Crozatti

Respondent

Biomarsh Environmental Limited

v

Heard at: Bury St Edmunds (by CVP)

On: 11 September 2020

Before: Employment Judge Laidler

Appearances

For the Claimant: In person.

For the Respondent: Ms A Botu, HR Manager.

COVID-19 Statement on behalf of Sir Ernest Ryder, Senior President of Tribunals.

This has been a remote hearing which was not objected to by the parties. The form of remote hearing was by Cloud Video Platform (CVP). A face to face hearing was not held because of the Coronavirus pandemic.

JUDGMENT

This matter is adjourned to another hearing as set out below due to the claimant having intermittent internet connection and it therefore not being possible to continue with this hearing by video.

REASONS

1. This hearing had been listed by Employment Judge Postle when he conducted a telephone hearing on 17 April 2020. It was converted to a CVP hearing in view of the ongoing pandemic. The claimant appeared to be connecting via a mobile phone whilst sitting in his lorry. Indeed, he showed a picture of him sitting in it on or by a road. His internet connection was very intermittent and whilst the Judge was administering the oath, he had trouble hearing. Then his picture kept freezing.

2. The Judge determined that it was not possible to have a fair hearing in all the circumstances and adjourned the matter to another date. This has now been listed for an attended hearing unless the claimant can advise the Tribunal that he will be in a building with a suitable and stable internet connection to enable him to participate in a video hearing. He must remember that this is his claim and this hearing is a formal court hearing albeit being conducted by video in the present circumstances.
3. The claimant had not complied with Employment Judge Postle's orders in that he had not prepared a witness statement. He should prepare a typewritten witness statement in accordance with Judge Postle's order and send this to the respondent as directed below.
4. The respondent had not prepared any witness statements either. Ms Botu who attended believed that her colleague Mr Matongo's statement that he made at the time in connection with the accident would suffice. That is not the case. The respondent needs to call evidence in support of its contention that the respondent was entitled to make deductions from the claimant's final pay and to set out its case in relation to why it says he was not entitled to 90 days' notice. That might be a statement of Ms Botu or some other person within the respondent.
5. An order for the exchange of witness statements is set out below.

ORDERS

Made pursuant to the Employment Tribunal Rules of Procedure

1. Witness Statements

The parties are to comply with Employment Judge Postle's order for the exchange of witness statements and any statements to be given must be exchanged by the **30 October 2020**.

2. Re-listing of the Final Hearing

The hearing will take place at the **Norwich Employment Tribunal, Norwich Magistrates Court, Bishopgate, NORWICH, Norfolk, NR3 1UP** on **27 November 2020** with a time estimate of **3 hours**. This will be an attended hearing. An application to convert to a video hearing will only be considered if the claimant provides details of where he will be located for the video hearing and confirmation that he will be in a building with a good internet access able to cope with a video hearing.

3. Other Matters

- 3.1 The above orders were made and explained to the parties at the hearing. All orders must be complied with even if this written record of the hearing is received after the date for compliance has passed.

- 3.2 Anyone affected by any of these orders may apply for it to be varied, suspended or set aside. Any further applications should be made on receipt of these orders or as soon as possible.
- 3.3 The parties may by agreement vary the dates specified in any order by up to 14 days without the Tribunal's permission except that no variation may be agreed where that might affect the hearing date. The Tribunal must be told about any agreed variation before it comes into effect.
- 3.4 **Public access to employment Tribunal decisions**
All judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.
- 3.5 **Any person who without reasonable excuse fails to comply with a Tribunal Order for the disclosure of documents commits a criminal offence and is liable, if convicted in the Magistrates Court, to a fine of up to £1,000.00.**
- 3.6 **Under rule 6, if any of the above orders is not complied with, the Tribunal may take such action as it considers just which may include: (a) waiving or varying the requirement; (b) striking out the claim or the response, in whole or in part, in accordance with rule 37; (c) barring or restricting a party's participation in the proceedings; and/or (d) awarding costs in accordance with rule 74-84.**

Employment Judge Laidler

Date: 17 September 2020

Sent to the parties on: .09/10/2020.....
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For the Tribunal Office