



EMPLOYMENT TRIBUNALS

Claimant

Respondent

v

Miss Bethany Murch

Baker Harding Limited

Heard: By CVP

On: 7 June 2022

Before: Employment Judge JM Wade

Appearance:

For the Claimant: No attendance

For the Respondent: Mr Earp, director

JUDGMENT

The claimant's claims of notice pay, other payments and wrongful information within employment process are dismissed upon her failure to attend or be represented at today's preliminary hearing, pursuant to Rule 47.

REASONS

1 The claimant appears to have taken employment through the respondent agency for one of its clients. She presented a claim form indicating the complaints above on the same day as her engagement with the respondent's client ended. The claims are unclear in their legal footing and the claimant has not provided any further information or documents beyond a photograph of a document sent by email at 12.46 on 13 April 2022. Certainly, the tort of misrepresentation is not a claim which can be determined by this Tribunal.

2 This case was originally arranged to take place on 14 April and on the day before the Tribunal spoke to both the claimant and Mr Earp to postpone it to another day because it was unlikely to be heard. They were both invited to provide further dates of unavailability. The respondent did so; the claimant did not. In fact, there is no further communication on the file from her.

3 A new notice of hearing was sent to her at her email address. When she did not attend today's hearing at 2pm our clerk rang the claimant's telephone number which simply rang. There was not a facility to leave a message. Two calls were made by the Tribunal before 2.30pm. An email was also sent.

4 I invited Mr Earp to make enquiries with those that know the claimant to his knowledge. At 2.30 his enquiries provided information that the claimant was seen at the weekend but may have had to return home from work for a Covid test.

5 That does not explain the claimant's failure to attend today, a hearing by videolink.

6 I then discussed the actions available to the Tribunal with Mr Earp including continuing in the claimant's absence, seeking to identify the claims without the claimant's further information, postponing and re-listing, or dismissing pursuant to Rule 47. There was also the option of an Unless Order or strike out warning and potential subsequent dismissal.

7 Weighing the options available to me I took into account that there is a fundamental right in the interests of justice to be heard before a claim is dismissed, or more accurately to have a reasonable opportunity to be heard. The claimant has had that opportunity because she has had the hearing details in good time, she has had the opportunity to apply for a postponement and has not done so, and she has been reminded this of the hearing this afternoon by our clerk.

8 The respondent and the Tribunal have been put to cost and inconvenience in attending for this hearing. I also take into account other Tribunal users, who need their cases determining and who do comply with Orders. Use of the Tribunal's resources must be deployed fairly and it is not fair in these circumstances to extend the use of its resources in this case. In all likelihood the claimant does not pursue the claim and is getting on with her life – presenting it on the day of her engagement ending was clearly done in the heat of unhappiness about that.

9 If misfortune has prevented attendance then the claimant has the opportunity to challenge this decision providing evidence of what intervened to prevent her attending, or replying to the Tribunals' attempts at contact, or seeking a postponement. The prejudice to her is therefore moderated. I also bear in mind that the prejudice in dismissing unclear claims is less than the prejudice in dismissing a clear claim with good arguable prospects. This case falls into the first category. In all the circumstances it is in the interests of justice to dismiss the claim. The claimant had not attended by the time the hearing terminated at 2.35pm (or thereabouts).

Employment Judge JM Wade

Dated: 7 June 2022