



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms L Fogg  
**Respondent:** Argos DHL  
**Heard at:** Watford Employment Tribunal (in public; in person)  
**On:** 15 September 2022  
**Before:** Employment Judge Quill (Sitting Alone)

## Appearances

For the Claimant: No Appearance or Representation  
For DHL Services Ltd: Mr A Ismail, counsel

## JUDGMENT

1. The claim is dismissed.

## REASONS

2. Rule 47 states:

### 47. Non-attendance

If a party fails to attend or to be represented at the hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it shall consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence.

3. The Claimant did not attend and all practicable enquiries were made, without success. Tribunal staff attempted to telephone the Claimant from 10am to 10.15am. There was no reply. She was not in the building prior to the start time of 10am, or by 10.15am. I therefore commenced the hearing at 10.15am.
4. This claim was presented naming "Argos DHL" as respondent. The ACAS early conciliation certificate had named "Argos and dhl". There were also some differences between the respondent's address between the 2 documents. I would not have found it in the interests of justice to reject the claim even if (as alleged in the items mentioned below) her actual employer had been called "DHL Services Ltd" at the actual address stated.
5. The claim was for money allegedly owing to her from a period of alleged employment 2 December 2019 to 23 May 2020. Although I have made no formal decision about time limits, at first sight, the claim would appear to be in time for

any claims where time started to run from 23 May 2022.

6. The claim was sent to the respondent's postal address as per the claim form, and no response was received by the due date of 29 October 2020. A person with an email signature "HR Business Partner | Argos, DHL Supply Chain" and email address ending "@dhl.com" contacted the tribunal on 13 November 2020, stating she had not seen the ET1 but had become aware of one. (The source of the information is not stated expressly, but by implication it was possibly ACAS).
7. She was ordered to supply a postal address, and supplied "FAO Mark Bray, DHL Supply Chain, 2 Millmarsh Lane, Enfield, EN3 7SW". On 8 March 2021, the claim for was re-sent to that address (on the instructions of EJ R Lewis, and for the reasons stated in the covering letter). There was no reply at all, and no further correspondence from the HR Business partner.
8. According to the tribunal file, around 15 February 2022, there was a discussion with the Claimant by phone. HMCTS contacted the Claimant to find out if the matter was still being pursued. She said it was. The file was therefore referred to a judge, and, on instructions of EJ R Lewis, a hearing was listed to decide whether to issue a judgment (and, if so, to decide remedy as well) under Rule 21.
9. That was sent to "Argos Dhl", though this time at a different address, and was also sent to the address for Mark Bray mentioned above. That was sent on 13 March 2022, and listed the hearing for 15 September 2022.
10. On 16 March 2022 solicitors acting for DHL Services Ltd (and, in principle "Argos DHL", though it was asserted there was no such entity) sent email to the Tribunal and the Claimant with ET3, grounds of resistance and application for extension of time for response. On 17 August, the same solicitors sent a further email, again copied to the Claimant, seeking an update on its application.
11. The most recent correspondence from the Claimant to the Tribunal is her email at 11.21am on 18 August, stating that she was unsure what she was supposed to do in relation to the Respondent's application.
12. On 11 September, the Claimant and the solicitors acting for the Respondent were notified that the application for extension of time would be considered at today's hearing.
13. According to documents in the bundle which the Respondent had prepared for today, after the Claimant's email of 18 August, the Respondent's representative wrote on 31 August asking for details of what she says she was owed, if anything, and telling her what to do if she was satisfied she had been paid in full.
14. On 2 September, at 15:15, the Claimant wrote to make clear that she thought the claim should continue, but did not specify what particular sums she alleged were still owing. The same day, the Respondent's representative replied to state (correctly in my judgment) that the Claimant's original claim only contained complaint of wages allegedly due, and nothing else. She was told that if there were no wages owing, the claim would fail. The letter stated that she might wish to take legal advice.
15. On 12 September, the Respondent's representative chased for a reply and

referred to a “payment that has been made to you” without giving specific details.

16. In the bundle for the hearing, as well as payslips during the period of employment (up to 23 May 2020) and what (on its face) appears to be the final pay (adjustment for basic pay; holiday entitlement being paid) in June, there is also a payslip issued after the claim was presented (net £16.57 in November 2020). Although not documented in the bundle, the Respondent asserts that £160.11 was also paid since issuing the claim, and that it believes that the Claimant has now been paid in full.
17. I decided that a postponement is not appropriate as there is no reason to think that the Claimant would attend the resumed hearing. I take into account that her most recent email to the tribunal expressed some confusion, but since, then, she had been told that today’s hearing was proceeding and that the Respondent’s application would be considered. She had known about the date for today’s hearing since March, and had not asked for a postponement, or said that she was unable to attend.
18. I decided that I could not make a fair decision in the Claimant’s absence about whether to accept the response, as that would require me to decide whether DHL Services Ltd was indeed her employer. (A contract in the bundle, as well as the payslips, seem to support the Respondent’s contention, but deciding the application would potentially necessitate dismissing “Argos DHL” as respondent in her absence in any event).
19. I could not decide on liability and remedy today in the Claimant’s absence, as no details of sums allegedly owing are in the claim form. Similarly, I could not clarify what the issues were for a future full merits hearing in the Claimant’s absence either.
20. Given the lack of response to the Respondent's representative emails to the Claimant of 2 September and 12 September, and the fact that the Claimant could not be contacted today, it is appropriate to dismiss the claim without requiring the Respondent to go to the further expense of pursuing the litigation which the Claimant appears to have abandoned.

**Employment Judge Quill**

Date: 15 September 2022

JUDGMENT SENT TO THE PARTIES ON

03.10.2022

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J Moossavi

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FOR THE TRIBUNAL OFFICE

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