



EMPLOYMENT TRIBUNALS

Claimant: Mrs S K McPhail
Mr SBJ McPhail

Respondent: Mr Robert Gerrard Hilliard

Heard at: Leeds **On:** 21 October 2024

Before: Employment judge Miller

Representation

Claimant: No attendance
Respondent: No attendance

RESERVED JUDGMENT

The claimants' claims for notice pay, holiday pay, arrears of pay and other payments are dismissed.

The claimants' claims that the respondent failed to provide itemised pay statements are dismissed.

REASONS

1. The claimants submitted a claim on the same form on 16 April 2024, having undertaken early conciliation from 19 March 2024 to 1 April 2024. They ticked the boxes to say they were making claims for notice pay, holiday pay, arrears of pay and other payments.
2. In the claim form the claimants made allegations that the respondent was withholding deductions for tax and national insurance but not paying them to HMRC. The claimants almost made allegations that the respondent's employer liability insurance was not valid and that he had not provided P45s at the end of employment. They also asserted that payslip had not been provided. On the face of it, these are claims of unauthorised deductions from wages and failure to provide payslips.
3. There was no information in the claims about notice pay, holiday pay or any other deductions.

4. The claim was served on the respondent on 17 June 2024 and the respondent was told to reply by 15 July 2024. The respondent did not reply. The case was listed for a hearing for the claimants to provide enough information for the judge to be able to make a decision.
5. The claimants indicated on 15 October 2024 that they would not be able to attend the hearing because they could not get transport (even though the hearing was by video) and they could not get time off at short notice, even though they had been aware of the hearing date since 17 June 2024.
6. The claimants must have also indicated before that date that they could not attend, as on 14 October 2024 EJ Cox refused to postpone the hearing and informed the claimants of the importance of attending the hearing.
7. The hearing started at 2pm today and there was no one in attendance. Under rule 47 of the Employment Tribunal Rules of Procedure 2013, if a party does not attend I can dismiss the claim or proceed with it in that party's absence.
8. I do not have sufficient information available to decide the claim and EJ Cox has already decided that there was not a good reason to postpone the hearing. In my judgment, I do not have the power to postpone the claim again, as there have been no changes in circumstance since EJ Cox's decision. In any event, it is not a proportionate use of Tribunal resources to postpone the proceedings again.
9. I therefore dismiss the claims. Firstly, I have the power to do so under rule 47 for the claimants' failure to attend but, in any event, the only alternative is to hear the claims in the claimants' absence. I cannot uphold the claims on the limited information I have – I do not know how much they say was deducted, over what period, or when payslips were not provided.
10. For all these reasons, the claims are dismissed.
11. If what the claimants say is true, however, then it appears that the respondent may have acted illegally and deprived the claimants of future benefits. This is not a matter that the tribunal has any power to do anything about, but it may be something that is more appropriately investigated by HMRC or another agency.

Employment Judge **Miller**

Date 21 October 2024