



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr M Pendry

**Respondent:** The members of the committee of the  
Over 21 Club (an unincorporated association)

**Heard on:** 1<sup>st</sup> October 2024

**Before:** Employment Judge Pritchard

**Members:** Ms N Murphy  
Mr K Murphy

## Representation

Claimant: No appearance

Respondent: Miss Y Barlay, consultant

# JUDGMENT

- 1 The Respondent is an unincorporated association and therefore correct identity of the employer is the members of its committee as constituted from time to time. The title to these proceedings is amended accordingly,
- 2 The entirety of the Claimant's claim is dismissed under Rule 47 of the Employment Tribunals Rules of Procedure 2013.

# REASONS

1. By way of an ET1 presented on 22 February 2023, the claimant claimed age discrimination, disability discrimination, holiday pay, and other payments. His claim contained very little detail. In its ET3, the respondent made it clear that further particulars of claim were needed. Judge Martin wrote to the parties saying that the respondent should seek the additional information by way of a direct request to the claimant with which the claimant was required to comply.
2. On 1 June 2023, the case was listed for final hearing with an allocation of four days before a full tribunal commencing today, 1 October 2024. Notice of hearing was sent to the parties, in the claimant's case by way of an e-mail to the e-mail address he provided on his ET1 Form.

3. In accordance with Judge Martin's direction the respondent sought particulars of the claimant's claim direct from the claimant. However, he did not reply and on 31 July 2023 the respondent applied to strike out the claim, alternatively for an unless order. The tribunal did not respond to that application which caused the respondent to enquire of the Tribunal on 24 October 2023. It does not appear that the respondent's application was considered.
4. On 15 November 2023, a preliminary hearing to be held before Judge Ramsden did not proceed. The claimant had to be tracked down by the Tribunal, the claimant maintaining that he had not received notice of hearing (although he had received the bundle of documents prepared by the respondent which had been forwarded to him). Although the preliminary hearing did not proceed, and the Judge did not issue a case management order, the Judge told the parties that a further preliminary hearing would be listed once the respondent confirmed to the tribunal that the claimant had provided an additional e-mail address. The claimant did so: that further e-mail address was that of the his daughter who was to assist him with his claim. The respondent informed the Tribunal accordingly.
5. It does not appear that the additional e-mail address was used by the Tribunal, presumably because the claimant's daughter did not inform the Tribunal that she should be placed on record as representing the claimant. Instead, the Tribunal continued to use the e-mail address provided by the claimant on his ET1 Form.
6. The respondent, using both e-mail addresses now provided, used an incorrect suffix and correspondence from the additional e-mail address bounced back.
7. On the 24 May 2024 a preliminary hearing took place before Judge Dyal. The claimant attended and was assisted by his daughter. It would appear therefore that the claimant received the notice of hearing. The Judge noted that there was lengthy and careful discussion of the issues and, although it was not easy to ascertain what the claims were, by the end of the discussion all were happy that they had done so. The Judge set out the claims and issues in the case in a case management order and noted the further information required to be provided by the claimant. That order included the requirement for the claimant to provide an impact statement and medical evidence relating to his alleged disabilities, together with other procedural steps to be followed.
8. The claimant did not comply with any of the orders. On 11 July 2024 the respondent made a further application to strike out. The claimant responded telling the respondent that he had been in hospital and would be putting in three more cases. In response to the application to strike out, he said he would just open new claims.
9. On 15 July 2024, the respondent informed the Tribunal that the claimant had not complied with the case management order and that correspondence sent to the additional e-mail address bounced back. This was considered by Judge Sudra who, on 31 July 2024, noticed that the respondent was using the incorrect suffix to the e-mail address and informed the respondent accordingly. Judge Sudra refused the respondent's strike out application.
10. Upon receipt of judge Sudra's correspondence, the respondent, now using the correct suffix to the additional e-mail address, asked the claimant to address

the matters in the case management order. The respondent heard nothing from the claimant and on 20 August 2024 made a further application to strike out. The claimant replied saying that he had been in hospital and was on medication for stress and anxiety. The respondent's daughter replied on 28 August 2024 saying this was the first contact she had received, that the Claimant had had teeth out and was unable to talk, and that he wished to go ahead with his claim.

11. The respondent made a yet further application to strike out on 19 September 2024 and made the tribunal aware that the case was not trial ready.
12. The case came before this tribunal with a four day allocation to commence this morning. The respondent was represented by Miss Barlay. The claimant did not attend.
13. The Tribunal Clerk was instructed to make enquiries of the claimant about the reasons for his absence. When telephone contact was made, he said he did not know of today's hearing and that his daughter should have been on record as representing him. He said he had received an e-mail last evening to say that the case was unallocated and that he had tried to telephone the tribunal this morning. He said he would like to proceed with his claim and, because he is not very good with the computers, he would like that to proceed by way of an in-person hearing.
14. Miss Barlay assisted the tribunal in understanding the procedural background to this claim. Her submission was the claim should be struck out.
15. Notwithstanding the fact that the respondent used an incorrect suffix to the additional e-mail address until Judge Sudra pointed out the mistake, and notwithstanding the fact that the tribunal did not copy correspondence to the claimant's daughter, the Tribunal is satisfied that all relevant information relating to hearings, the case management order, and other correspondence from the tribunal and from the respondent were likely to have been sent to the claimant. It appears that the claimant has received emails: the Tribunal has had regard to replies from the claimant to correspondence sent to his e-mail address (for example, those referred to in paragraphs 8 and 10 above). Similarly, on 28 August 2024, the claimant's daughter responded to an e-mail sent to her e-mail address (paragraph 10 above).
16. The Tribunal finds it likely that the dates for the final hearing would have been a matter of discussion at the preliminary hearing before Judge Dyal, not least because he made orders to be complied with in preparation for the final hearing.
17. The Tribunal finds that it is likely the claimant was sent, and received, notice of the hearing to commence this morning.
18. The case is not, as put by the respondent, trial ready. None of the case management orders have been complied with. There is no bundle of documents, there are no witness statements.
19. Notwithstanding mention of the claimant and his daughter suffering illnesses, there is no evidence before the tribunal to suggest the claimant is insufficiently well such that he is unable to comply with the case management orders or attend the final hearing.

20. The tribunal does not accede to the respondent's application to strike out. Rather, in the circumstances, it is appropriate to apply Rule 47.

21. Rule 47 provides:

*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 reason for the party's absence.*

22. The Tribunal having considered the information available to it, after having made enquiries of the claimant about the reason for his absence, the claim is dismissed under Rule 47.

Note

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Employment Judge Pritchard

Date: 1<sup>st</sup> October 2024

JUDGMENT AND REASONS SENT TO THE PARTIES ON  
2<sup>nd</sup> October 2024

FOR THE TRIBUNAL OFFICE