



EMPLOYMENT TRIBUNALS

Claimant: Miss H. Hosler
Respondent: Karen Pearson t/a Managed Ink
Heard at: Manchester (by CVP) **On:** 4 October 2024

JUDGMENT

The claimant's claim is dismissed pursuant to Rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

REASONS

1. The matter was listed for a final hearing at 2.15 pm on 4 October 2024 to determine the claimant's complaint of unauthorised deductions from wages contrary to s13 of the Employment Rights Act 1996 in respect of unpaid commission of around £900.
2. Notice of the hearing had been sent to the parties on 18 July 2024. The claimant did not attend the hearing. When contacted by the clerk on 3 and 4 October, she stated she could not face meeting anyone from the respondent, even by video link. She denied she was ill. She requested that she be heard separately from the respondent.
3. The respondent attended and produced a joint bundle of 98 pages. The bundle had been sent to the claimant by email on 26 September 2024.
4. Rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 provides that "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." The powers under the Rules must be exercised in accordance with the overriding objective set out in Rule 2 which is to deal with cases fairly and justly.
5. In accordance with Rule 47, I am satisfied that enquiries were made about the claimant's reasons for her absence which are given above. Under Rule 47, I have the option to dismiss the claim or proceed with the hearing in the

absence of the claimant. Given the circumstances of the claimant's absence, and the provision of extensive documentation covering the calculation of the claimant's commission in the final month of her employment, which gave rise to her complaint, I decided to hear the matter in her absence.

6. Having considered the documentary evidence and the evidence of Ms. Pearson, I am satisfied that there was no outstanding payment of commission due to the claimant once all the reductions attributable to the Gross Profit of the claimant's accounts for January 2024 had been calculated.
7. The claimant had the burden of proving her loss. In her claim, she stated that the amount of commission she was owed was "around £900". She produced no evidence to support her contention.
8. For these reasons, I have concluded the appropriate course is to dismiss the claim.

Judge Callan

Date 9 October 2024

JUDGMENT SENT TO THE PARTIES ON
Date: 21 October 2024

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FOR THE TRIBUNAL OFFICE

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