



EMPLOYMENT TRIBUNALS

Claimant: Mr Anthony Lewis
Respondent: Maene Restaurant L
Heard at: East London Hearing Centre (by CVP)
On: 11 April 2024
Before: Employment Judge B Beyzade

Representation

Claimant: Not present or represented
Respondent: Not present or represented

JUDGMENT

The Judgment of the Tribunal is that:

- 1) The claimant and the respondent being neither present nor represented during the Final Hearing listed at 10am on 11 April 2024 at the East London Hearing Centre by Cloud Video Platform and at a point in excess of 35 minutes after the time set for the Final Hearing, on the Clerk to the Tribunal having contacted the claimant by telephone at 10.00am, 10.01am, 10.11am and 10.14am on 11 April 2024, and on the claimant not having responded to email correspondence sent by the Clerk to the Tribunal at 10.08am and 10.18am on 11 April 2024, and the claimant not having otherwise communicated with the Tribunal in relation to his non-attendance at the Final Hearing thereafter; on the claimant's non-attendance; and on the Tribunal's own initiative, and having considered the content of the Tribunal file, the Tribunal dismisses the claimant's claim in terms of Rule of Procedure 47 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

REASONS

Summary of claim and procedure to date

1. The claimant lodged a claim on 10 November 2023 for a redundancy payment and other payments (arrears of pay relating to October 2023), to which the respondent did not enter a Response.
2. Notice of today's Final Hearing by Cloud Video Platform ("CVP") was sent to the parties on 26 January 2024 together with joining instructions.

Final Hearing on 11 April 2024

3. The case called for Final Hearing at East London Hearing Centre by CVP on 11 April 2024 at 10am.
4. There was no appearance for or on behalf of the claimant.
5. The respondent did not attend the hearing and they were not represented.
6. A Notice of Claim was sent to the respondent on 19 December 2023. The respondent did not present a Response to the claimant's claim. On 15 March 2024 the respondent was advised that a judgment may now be issued under Rule 21 of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 ("the ET Rules").
7. The case file records that Notice of the date and time set down for Hearing was sent to the claimant and the respondent on 26 January 2024 at the correspondence address provided by them to the Employment Tribunal for the purposes of receiving such communications. No return of the Notice of Hearing issued to the claimant, or the respondent has been received by the Tribunal.
8. The claimant did not provide any additional information or documents relating to the claimant's claim or to communicate that they will not be attending the hearing (and the claimant did not give any reasons in respect thereof).
9. On 15 March 2024 Legal Officer, Mr M Ali directed the claimant to provide copies of a schedule of remedy, payslip and copy of the claimant's contract of employment on or before 25 March 2024. As there was no response from the claimant, the Legal Officer sent correspondence to the claimant dated 02 April 2024 requesting that the claimant reply to the directions dated 15 March 2024 in writing by 05 April 2024 and he further advised that a failure to comply may result in a strike out warning being issued. The claimant did not respond to the correspondence dated 02 April 2024.
10. On the sitting Judge's directions, the Clerk to the Tribunal checked and confirmed that neither the claimant nor the respondent had contacted the Tribunal in connection with the Hearing since correspondence was sent to parties by the Tribunal by email on 26 January 2024.

11. On the sitting Judge's direction, the Clerk to the Tribunal attempted to communicate with the claimant.
12. The claimant was contacted by the Clerk to the Tribunal at 10.00am, and 10.01am on 11 April 2024. The Clerk to the Tribunal advised that there was no reply and further that they were unable to leave a voicemail message. An email was sent to the claimant at 10.08am advising that today's hearing was due to start at 10am, he had not attended the hearing, and the claimant was advised to contact the Tribunal (on the email address and telephone number provided in the email) if he was having technical problems. A copy of Notice of Hearing which contained the log-in details of the CVP hearing was attached to that email. The claimant did not reply to that email.
13. The Tribunal sat at 10.10am and then adjourned briefly at 10.11am and sat again at 10.33am to afford the claimant the opportunity to attend (though late) or to communicate with the Tribunal regarding his non-attendance.
14. The Clerk to the Tribunal contacted the claimant by telephone at 10.11am and 10.14am. The Clerk to the Tribunal advised that there was no reply and further that they were unable to leave a voicemail message.
15. The claimant was advised by email sent to them by the Clerk to the Tribunal at 10.18am on 11 April 2024 that if the claimant failed to attend the Hearing by 10.20am (on 11 April 2024), the Hearing will proceed in their absence and the claim may be dismissed.
16. Accordingly, after a brief adjournment, the Tribunal reconvened at 10.33am.

Dismissal of claim pursuant to Rule 47 of the Employment Tribunal Rules

17. At around 10.36am and in light of the claimant's unexplained non-attendance and in the absence of a good reason (which was satisfactory to the Tribunal), and on the Tribunal's own initiative, the Tribunal dismissed the claimant's claim in terms of Rule 47 of the ET Rules. Rule 47 of the ET Rules provides:

"47. 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."
18. I considered the nature of the claimant's complaints, the issues that the Tribunal were required to investigate and determine (insofar as they were possible to ascertain from the pleadings), and the content of the Claim Form. I considered the documents and correspondences on the Tribunal file. I was satisfied that the claimant had been afforded ample opportunity to attend the Final Hearing and he had failed to attend the Hearing on 11 April 2024. I took into account the Tribunal's overriding objective (Rule 2 of the ET Rules).
19. I consider that the claimant's non-attendance is capable of being explained by him having decided not to pursue his claim having been advised by the Legal Officer about the information and the documents that are required in order to determine his

claim. That explanation is consistent with the claimant's apparent failure to communicate with the Tribunal.

20. No satisfactory explanation has been put forward explaining why the claimant had not attended the hearing on 11 April 2024.
21. I am satisfied that the Tribunal has made all enquiries that may be practicable about the reasons for the claimant's absence.
22. The claimant did not attend today's hearing and Rule 47 of the ET Rules specifically deals with non-attendance at a hearing. I considered that the claim could not be heard in the absence of the claimant, and that the claimant was required to provide evidence in relation to the identity of the correct employer (and the correct respondent) and evidence in relation to the claimant's substantive claim (including the amounts owed and how they were calculated).
23. In my judgment, it was not appropriate to hear the claimant's claim in the claimant's absence given the nature of the claim and the issues before the Tribunal. I therefore dismissed the claimant's claim. Prior to dismissing the claim, I considered and gave full effect to the Tribunal's overriding objective (Rule 2 of the ET Rules) and I took account of any information that was available to me. Dismissing this claim under Rule 47 of the ET Rules is proportionate and in accordance with the Tribunal's overriding objective in all the circumstances.

Employment Judge Beyzade
Dated: 11 April 2024