



EMPLOYMENT TRIBUNALS

Claimant

Respondent

v

Carl Donohoe

Chaos Bars Yorkshire Limited

Heard: In Leeds by CVP

On: 5 June 2024

Before: Employment Judge JM Wade

Appearance:

For the Claimant:

No attendance

For the Respondent:

Mr Hill, Director, Mr J Clarke, representative

JUDGMENT

The claimant's claim for holiday pay is dismissed pursuant to Rule 47 upon the claimant's failure to attend or be represented at today's hearing.

REASONS

1. The claimant brought a single claim for holiday pay seeking £580 and further compensation for debt interest (or similar) producing a total claim of £1000. The respondent presented a full defence in time, attaching payslips and acknowledging there was £145.88 gross holiday pay due, which I am told today was paid on 13 June 2024 (the same month that the defence was presented to the Tribunal).
2. In advance of the hearing I considered the information on the file and noted that the original hearing at the end of August was postponed for lack of Judge, but that there had been no contact from the claimant or respondent providing unavailability dates as requested.
3. The new notice of hearing for today's hearing was sent on 23 October 2024. There was attendance on behalf of the respondent (as above before 10am). At 10 am there was no attendance by or on behalf of the claimant. I asked our clerk to telephone the claimant and update us with any information.
4. By 10.10 there was no such information and I concluded, taking all matters into account, that the most likely explanation was that, having received the pay slips

and calculation, the claimant had abandoned pursuit of his case. It was possible that something untoward had happened preventing his attendance but that was unlikely.

5. I decide the just course of action pursuant to the Tribunal's rules. I weigh in the mix the impact on justice as a whole, when one party's conduct affects the administration of justice for all Tribunal users. While dismissal at Rule 47 is potentially draconian, the prejudice to a party in such a decision is much less if, as here, some concession has been made and paid, and the defence is arguable.
6. I also consider that it would not be just to continue with the hearing and hear sworn evidence without the claimant having the opportunity to challenge that evidence.
7. For these reasons and in these circumstances the claim is dismissed pursuant to Rule 47, which provides:

Non-attendance

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

8. Postscript: After I had announced this decision our clerk told me that she had made telephone contact with the claimant, he was at work, but could not spare the time to attend the hearing. That, to me, is consistent with the circumstances of dismissal above.

Employment Judge JM Wade

Dated: 28 January 2025

JUDGMENT SENT TO THE PARTIES ON

Dated:

FOR THE TRIBUNAL OFFICE

All judgments (apart from those under rule 52) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents. There is a practice direction about recording in Tribunal hearings.