



EMPLOYMENT TRIBUNALS

Claimant: Miss N Alhuneidi

Respondent: Aratus Capital Ltd

Heard at: London Central

On: 7 January 2019

Before: Employment Judge H Grewal

Representation

Claimant: No appearance

Respondent: Mr D Webster, Director

JUDGMENT

The claim is dismissed.

REASONS

- 1 In a claim form presented on 5 August 2018 the Claimant complained of breach of contract and/or unauthorised deductions from wages in respect of the Respondent's failure to pay her salary and commission which she was entitled to be paid. She claimed that the Respondent owed her £3,875.
- 2 On 26 September 2018 the Tribunal sent to both parties notice that the hearing of the claim would take place on 23 November 2018. It appears that that was sent by post. The Claimant's position is that she did not receive that notice.

- 3 On 27 October the Tribunal sent to the Claimant by email the Respondent's response to her claim. The Claimant accepts that she received that.
- 4 On 29 October an Employment Judge instructed the administration staff to send a letter to the parties. Unfortunately, that letter was not sent until 14 November 2018. It was sent by email. The letter stated that the Claimant was to send the Respondent a schedule of loss by 9 November 2018, the parties were to exchange relevant documents by 9 November 2018 and witness statements by 16 November.
- 5 The Claimant sent an email to the Tribunal on 17 November (not copied to the Respondent) in which she complained that she could not comply with the directions made in light of the fact that she had not received them until 14 November.
- 6 As the case would not be ready for hearing on 23 November the Regional Employment Judge vacated the hearing on 23 November and gave directions for the hearing to be relisted. A new notice of hearing listing the case for 7 January was sent to the Claimant by email on 22 November at 6 pm. It is not clear if that notice was sent to the Respondent.
- 7 The Respondent did not receive any communication postponing the hearing on 23 November and it attended the Tribunal on that day with two witnesses ready to proceed. They were informed that the hearing had been postponed because the Claimant had requested a last-minute postponement.
- 8 On 23 November the Claimant applied to the Tribunal by email to postpone the hearing on 9 January [sic] to early February. She did not give any reasons for seeking a postponement. In respect of the letter sent to her on 14 November she asked what was meant by "relevant documents" and "witness statements."
- 9 On 4 December the Tribunal sought the Respondent's comments on the Claimant's application postpone the hearing. The Respondent provided its comments on 12 December. It opposed the application. It pointed out that it had already attended once for the hearing of this case only to be told that it had been postponed at the last minutes; the case had been presented on 5 August 2018 and the Claimant had had sufficient time to collate her evidence.
- 10 On 4 January at 10.57 a.m. the Tribunal informed the parties by email that the Claimant's application to postpone had been refused and that the hearing remained listed for 7 January 2019. The reasons given were that the case had already been delayed and the Claimant had not given sufficient reasons for it not to proceed.
- 11 At 2.11 p.m. the Claimant asked the Tribunal to reconsider the decision. That was not copied to the Respondent. She said that she was unaware that the case had already been postponed as the first listing that she had been given was 9 January [sic]. She said that she was in Serbia and their Christmas was on 7 January and that there were no reasonably priced flights at that time.

12 At 2.50 p.m. the Tribunal informed the Claimant that the notice that she had been sent on 22 November had clearly said that the hearing would take place on 7 January 2019.

13 On 5 January (which was a Saturday and the Tribunal office was closed) the Claimant sent the Tribunal another email. She said that on 4 January after receiving the Tribunal's email she had called the Tribunal and then sent an email. She had subsequently discovered that this email had not been delivered. In it she had given further reasons for seeking a postponement. She said that her working visa and resident permit had expired and she had left the UK. She also said that although she had called the Tribunal several times since she made her application to postpone, she had not heard from the Tribunal until 4 January.

14 Two individuals from the Respondent attended the hearing this morning.

Conclusions

15 I considered I had three options. I could postpone the application, hear the case or dismiss the claim. I decided that it would not be in accordance with the overriding objective to postpone the case. It was now some five months since the claim had first been presented. It is a relatively small and simple claim. The Respondent had attended the Tribunal on two occasions to defend the claim. I was prepared to accept that the Claimant had not been aware of the first hearing. However, she has been aware of the hearing listed for today from as long as 22 November. She has had ample time to prepare for the hearing and to organise her attendance at the hearing. When she first applied for a postponement, she did not give any reason for seeking a postponement. I accept that there was a delay on the Tribunal's part in dealing with her application. However, unless and until she heard that the hearing had been postponed she should have ensured that she was ready and able to attend the hearing. She had not attended today although the case had not been postponed. I decided that the onus was on the Claimant to establish that she was owed the sums she claimed. If I had no evidence from her, her claim could not succeed. Under rule 47 of the Tribunal's Rules of Procedure 2013 if a party fails to attend the Tribunal can dismiss the claim having considered all the information available to it. I considered all the information on the file and decided to dismiss the claim.

Employment Judge Grewal

Date 9 January 2019

JUDGMENT & REASONS SENT TO THE PARTIES ON

11 January 2019

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FOR THE TRIBUNAL OFFICE