



## EMPLOYMENT TRIBUNALS

<b>Claimant</b>	Mr D Haynes
<b>Represented by</b>	no attendance
<b>Respondents</b>	London General Transport (Go Ahead London Limited)
<b>Represented by</b>	Mr R Bailey (counsel)
<b>Before:</b>	<b>Employment Judge Cheetham QC</b>

**Open Preliminary Hearing held on 6 July 2021 at  
London South Employment Tribunal by Cloud Video Platform**

### JUDGMENT

1. The claim is dismissed, such dismissal not to take effect until **3 August 2021**.
2. The Claimant may make written representations to the Tribunal (marked for the attention of EJ Cheetham QC) as to why his claim should not be dismissed and these should be sent to the Tribunal by no later than **27 July 2021**.
3. The Tribunal is considering whether to make an order that the Claimant pays the Respondent's costs in the sum of £1,250.
4. The Claimant may make written representations (marked for the attention of EJ Cheetham QC) as to: (a) whether a costs order should be made against him as a result of his non-attendance, and (b) what is his ability to pay any costs order (including, therefore, his income, outgoings and savings). These should be sent to the Tribunal by no later than **27 July 2021**.

## REASONS

1. This is a claim that was brought on 16 June 2020 and arose from the Claimant's employment between 1 November 2015 and 13 February 2020. It was listed for today's Open Preliminary Hearing by EJ Ferguson in November 2020, as the claim was brought out of time.
2. The Claimant did not attend and the Tribunal did not receive any message from him indicating that he would not be attending. I was told that the Respondent has had no recent contact from him and the Claimant had not prepared an agenda as requested.
3. I draw the conclusion that the Claimant is no longer actively pursuing his claim, perhaps as a result of realising the limitation issues he faces. In those circumstances, I am dismissing the claim against him, but the dismissal will not take effect until 3 August 2021, which gives the Claimant time to make any written representations. For example, there may be some medical reason for his non-attendance, but – if that is the case – the Tribunal would need to see supporting medical evidence.
4. The Respondent's counsel made an application for costs on the ground that the Claimant had behaved unreasonably in not attending this hearing, about which he had been notified last November. Had he indicated before now that he was no longer pursuing the claim, then the costs of today could have been saved. Mr Bailey was instructed to seek to recover the cost of his brief fee in the sum of £1,250.
5. I agree that it was unreasonable for the Claimant simply to do nothing, because that has led to a waste of the Respondent's time and money, but also a waste of the Tribunal's resources. I am therefore considering awarding the Respondent their costs. I am also making the provisional Order in the sum of £1,250, but that is subject to any representations from the Claimant, both as to whether the costs order should be made, as well as to his personal financial means. In other words, the Claimant needs to set out what are his earnings, outgoings and savings and these will be taken into account in making a final order with regard to the costs application.

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Employment Judge S Cheetham QC  
Dated 6 July 2021

