



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr J Lambert

**Respondent:** Tony Team Limited

**Heard at:** Nottingham

**On:** Thursday 29 April 2021

**Before:** Employment Judge M Butler (sitting alone)

## Appearances

**For the Claimant:** No attendance

**For the Respondent:** Mr D Robinson-Young, Counsel

# JUDGMENT

The judgment of the Employment Tribunal Judge is that:

1. The claim of disability discrimination is struck out on the grounds that it is not being actively pursued.

# REASONS

## Introduction

1. This Preliminary Hearing was listed after three previous telephone case management hearings to consider whether the Claimant was disabled due to an eye condition following an accident at work on 3 August 2015.
2. All case management orders previously made have been complied with.
3. Appropriate notice of today's hearing was given to both parties.
4. The Claimant did not attend the first telephone case management hearing before my colleague, Employment Judge Blackwell, on 5 May 2020 because he said he did not receive notice of that hearing. The Claimant was well aware of today's hearing because on 16 April 2021 he applied for a postponement on the ground that he was awaiting correspondence from a suitable representative. This application came before me when dealing with duty post and I refused it on the grounds that it was made very late in the day and the Claimant had indicated in a previous telephone hearing on 16 July 2020 that he was proposing to instruct solicitors. Accordingly, he had had plenty of time in which to do this.

5. As the Claimant had not attended the Tribunal Hearing Centre this morning by the proposed start time of the hearing of 10:00 am, I directed a member of the Tribunal staff to telephone him to ascertain whether he proposed to attend. That member of staff called both of the mobile numbers provided by the Claimant, neither of which was answered, and left messages on both. There being no response from the Claimant by 10:15 am, I decided to proceed with the hearing.

6. In the absence of the Claimant, I did consider the evidence before me along with Mr Robinson-Young's submissions. The Claimant had provided both an impact statement and a medical report in support of his claim that he was at the material time disabled by virtue of an injury to his left eye. I also had before me the pleadings in this matter. The medical report produced seems to have been prepared in connection with the Claimant's personal injury claim following the accident during his employment. It is dated 20 June 2018 and the author is Dr S Vohra. Although the Claimant variously describes having lost the sight in his left eye and having lost his peripheral vision in that eye, Dr Vohra's report does not support those statements. His report says at paragraph 6.5:

"After around four weeks his vision had improved and by around six weeks after the accident the vision in his left eye had returned to normal."

Further, at clause 9.1 the report states:

"Mr Lambert reports no specific disruption to planned or scheduled, social or recreational activities."

And at paragraph 9.2:

"He has no regular hobbies or recreational activities that have been affected."

7. Whilst this information provides obvious difficulty to the Claimant in relation to his claimed disability, he has nonetheless seemingly made no attempt to attend the hearing today to give evidence in support of his disability discrimination claim.

9. The unfair dismissal element of the Claimant's claim has been listed for a three day hearing on 28, 29 and 30 June 2021. Clearly, the Respondent is quite rightly concerned that the Claimant may not attend and I considered it appropriate to make an unless order which will be sent to the parties with this judgment.

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Employment Judge M Butler

Date 30 April 2021

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE

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