



EMPLOYMENT TRIBUNALS

Claimant: M C Donachie

Respondent: Maximus UK Services Ltd

JUDGMENT

The claimant's claims are dismissed in accordance with rule 47 of the Employment Tribunals Rules of Procedure 2013 because the claimant failed to attend or be represented at the hearing.

REASONS

1. The claimant presented a claim for disability discrimination and unfair dismissal on 14 December 2023.
2. The claimant was sent, on 6 February 2024, a notice of the hearing on 29 April 2024.
3. On 11 March 2024 the tribunal wrote to the claimant to warn him that he had insufficient service to bring a claim of unfair dismissal and to provide reasons why that claim should, not be struck out by 18 March 2024. (The strike out warning).
4. On 11 March 2024 EJ Ayre wrote to the claimant and requested further information about his claim to be provided by 18 March 2024.
5. The claimant replied on 11 March 2024 to the strike out warning indicating that he believed he had a good reason for his claim to continue. On 13 March 2024 the claimant sent detailed further information about his claim in response to the directions from EJ Ayre.
6. On 24 April 2024 the respondent sent their agenda and draft list of issues to the claimant in preparation for the hearing on 29 April 2024.
7. On 26 April 2024 the Tribunal sent the claimant and the respondent information about how to join the video hearing.

8. At 7.56 am on 29 April 2024 the claimant wrote to the Tribunal (not copying the respondent) as follows:

“Good Morning,

I collected this email over the weekend, I had not heard anything from the court or the respondents solicitor since my communications in early March, so I had assumed the case had been dismissed.

I will therefore not be attending the pre hearing today.

*Regards
Craig”*

9. I conclude that this was in response to the information about joining the video hearing.
10. At 9.44 am on 29 April 2024 I directed that the clerk write to the claimant in the following terms:

“EJ Miller has reviewed the attached email from the claimant and has directed me to write as follows:

‘The claimant sent the attached email to the Tribunal (but not copied to the respondent) this morning at 7.56 am.

The claimant's claim has not been dismissed. The claimant should attend the hearing if he wants his case to continue. The purpose of the hearing is to clarify the claimant's claims and to make further case management orders. If the claimant is unable to attend, he must explain why and, if relevant, provide evidence about his inability to attend. If he does not, it is possible that the hearing will proceed in the claimant's absence and this could result in the claimant's claim being dismissed”

11. A copy of the claimant's email was also sent to the respondent.
12. That correspondence was sent to the claimant. The claimant did not attend the preliminary hearing. At my request, the clerk tried twice to contact the claimant by phone, but was unsuccessful. Mr Holloway, who attended the hearing on behalf of the respondent, confirmed that the respondent had had no communications from the claimant about his claim since March 2024. There were no enquiries from the claimant about the status of his claim on the Tribunal file.
13. In my judgment, the tone of the claimant's email this morning made it clear that the claimant did not intend to proceed with his claim. There was objectively, no basis on which the claimant could reasonably conclude that his claims had been dismissed. The claimant was given a warning that his claim could be dismissed. I accept that this was a short warning but all he had to do was send a short reply and brief explanation. He did not do so. I concluded, therefore, that in fact that claimant had no intention of attending and was not actively pursuing his claim.

14. The claim could be dismissed under rule 37(1)(d) on the grounds that it was no longer being actively pursued, or under rule 47 on the grounds that the claimant had failed to attend or be represented at a hearing. In my judgment, rule 47 is the most appropriate rule in these circumstances. I have considered all the information available (as set out above) and enquiries were made about the reasons for the claimant's absence.
15. For these reasons, the claimant's claim is dismissed.

Employment Judge Miller

Date: 29 April 2024