



# EMPLOYMENT TRIBUNALS

**BETWEEN**

**Claimant**

Mrs J Robson

**Respondent**

AND The Hugin (G&F RFC) Supporters Club Ltd

## **JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

**HELD AT** Southampton

**ON**

21 February 2020

**EMPLOYMENT JUDGE GRAY**

### **Representation**

**For the Claimant: No attendance and not represented**

**For the Respondent: Mr Williams (Solicitor Advocate)**

### **JUDGMENT**

**The judgment of the tribunal is that the claim is struck out pursuant to Rule 37(1)(c) and (d) of the Employment Tribunals Rules of Procedure.**

### **REASONS**

1. In this case the Claimant Mrs Robson brings monetary claims for unlawful deduction from wages against her ex-employer The Hugin (G&F RFC) Supporters Club Ltd. The Respondent denies the claims.
2. The Claim was presented on the 7 May 2019.
3. The dates of the ACAS early conciliation certificate are 13 March 2019 to 13 April 2019.

### **The hearing on the 20 December 2019**

4. There has been a previous hearing in this matter on the 20 December 2019 before the same Employment Judge. That hearing was listed as the final

hearing to determine the Claimant's claim. However, the Respondent had just instructed its representative and after considering the issues as clarified at that hearing, the Respondent applied for and was granted an adjournment, as it did not have the relevant evidence, in the form of witness evidence from Mr Foulger the Respondent's former Chairman, to be able to properly defend its position.

5. The hearing on the 20 December 2019 was then converted to a preliminary hearing for case management with the parties' consent. The matter was relisted for final hearing on the 6 January 2020. The Respondent was ordered to prepare a bundle of documents for the relisted hearing and to supply this to the Claimant by the 27 December 2019. The parties were ordered to exchange witness statements in advance of the hearing on the 3 January 2020.

### **This hearing**

6. Unfortunately, the hearing on the 6 January 2020 had to be postponed that day, due to a lack of judicial resource. It was relisted to today (21 February 2020) with the parties' agreement.
7. An email was received today (21 February 2020) by the Tribunal from the Claimant timed at 09:19 which said "... Sorry for the late notice but having been up since about 4am with sickness and migraine I am physically unable to attend today - my husband has called and was informed that I had to email you directly myself and explain my inability to attend and to ask for the case not to be heard in my absence - I have not had the opportunity to access mr Foulger's statement from peninsula as it was in a locked document - so if I had I would have been able to access it to see what it contains I would have been able to allow the case to be heard in my absence by giving my response to the statement but without seeing this document I don't believe it would be a fair hearing with me being present.....".
8. The Employment Judge was also made aware that there was an email from the Claimant to the Tribunal dated 10 January 2020 (which did not appear to have been copied to the Respondent) that said "... I am still yet to receive the witness statement form the respondent – they have sent me one that is password protected so I don't have access to the document. Can you please advise if this is acceptable or if they should be providing me with the

- statement in full...". There does not appear to have been a response from the Tribunal to this email.
9. The Respondent attended this hearing and submitted a copy of the agreed bundle.
  10. The Employment Judge handed the Respondent's representative copies of the two emails referred to above.
  11. The Respondent submitted that it objected to the Claimant's application, that had been made this morning, for a postponement. Further, in any event it had intended to make an application for the claim to be struck out due to the Claimant's failure to exchange witness statements and her not actively pursuing her claim.
  12. It was confirmed to the Employment Judge by the Respondent's representative in support of its strike out application that; the Claimant had been emailed by the Respondent's representatives on the 3 January 2020 a password protected witness statement, on the basis that the password would be released to the Claimant when she confirmed that she was ready to email her witness statement in exchange. The Claimant did not do so and the Respondent's representatives chased this again by email on the 9 January 2020. The Claimant did not respond so on the 17 February 2020 the Respondent's representatives emailed the Claimant to say that it would be applying to have her claim struck out at this hearing. This they have now done.
  13. As it would appear from the information available and the matters as confirmed by the Respondent's representative, that the Claimant has failed to comply with the order to exchange witness statements and was not actively pursuing this case, the claim is therefore struck out pursuant to Rule 37(1)(c) and (d) of the Employment Tribunals Rules of Procedure.

Employment Judge Gray

Dated: 21 February 2020

Judgment sent to parties: 26 February 2020

FOR THE TRIBUNAL OFFICE