



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms Shelley White  
**Respondent:** ML Ventures Limited  
**Heard at:** East London Hearing Centre (by telephone)  
**On:** 23 November 2020  
**Before:** Employment Judge Allen QC (sitting alone)

## Appearances

For the claimant: Did not attend  
For the respondent: Ms H Winstone

**This has been a remote telephone hearing, which was not objected to by the parties. The form of remote hearing was A: audio - fully (all remote). A face to face hearing was not held because it was not practicable and no-one requested the same and all issues could be determined in a remote hearing. The documents that I was referred to are in the tribunal file, which I had before me.**

## JUDGMENT

1. The Claimant's claims are struck out.
2. The final hearing listed for 10 and 11 June 2021 is therefore vacated.

## REASONS

1. The claimant was employed by the respondent between 25 February 2020 and 17 June 2020. She was dismissed on 17 June 2020 with 1 week of notice. She did not attend work during that week and was not paid for the notice. She commenced these legal proceedings by ET1 claim form presented on 3 July 2020.
2. The only matter unambiguously claimed in the claim form was wrongful dismissal (a claim for unpaid notice pay). No other boxes were ticked at section 8.1 of the Claimant Form.

3. There was also reference to a belief that an assistant manager was homophobic in the short 6 line narrative section 8.2. This suggested at least the possibility that the claimant wished to bring a claim for sexual orientation discrimination although it was not clear that she wished to do so – or exactly what that claim might be about.
4. Notice of today's hearing was sent to the parties on 26 August 2020. Today's hearing was to have been a case management preliminary hearing at which the issues in the case could have been identified. Case management orders had already been sent to the parties on 26 October 2020. The claimant has not complied with the order that she provide to the respondent and the Tribunal a Schedule of Loss by 9 November 2020. The matter had been set down for a 2 day final hearing on 10 and 11 June 2021.
5. The claimant did not attend the telephone hearing today. The tribunal clerk contacted the claimant by telephone and the claimant said that she did not intend to attend the hearing. No reason was given. The respondent's solicitor, Ms Percy, reported that she had emailed the claimant on 13 and 18 November 2020 but received no reply. Ms Percy reported that she had spoken to the claimant on the telephone on Friday 20 November 2020 and that the claimant had said that she had received the respondent's email but that she was unsure of the Tribunal paperwork. Ms Percy reported having then emailed to the claimant the notice of this hearing and the respondent's agenda. The claimant did not submit an agenda.
6. In light of the failure by the claimant to attend the hearing today or to supply any reason for her non-attendance or to comply with the case management order to provide a schedule of loss, I reminded myself of the principles relating to Rule 37(1)(b), (c) and (d) on strike out – in particular on the basis of a failure to actively pursue a case and of Rule 47 which states:  

**47 Non-attendance**  
If a party fails to attend or to be represented at the hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it shall consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence.
7. I considered alternatives to dismissal of the claimant's case. It would not have been possible to identify the issues without the participation of the claimant. Going ahead with today's hearing in the absence of the claimant and/or unless orders did not appear to be appropriate given that what was primarily required at this point was the claimant's participation in the process of identifying the issues. A further listing for a case management preliminary hearing seemed disproportionate, especially if the claim is limited to 1 week's notice pay. I also took into account the needs of other litigants in a busy employment tribunal system.
8. Taking those matters into consideration, I have determined that it would appear that the claimant does not wish to proceed with her claim or at least does not wish to assist the tribunal and it is proportionate and in line with the overriding objective to dismiss the claimant's claim.

9. If the claimant wishes me to reconsider this decision, she must apply to the tribunal within 14 days of this decision being sent to the parties, explaining why she did not attend today or inform the respondent and the tribunal of her reason for failing to attend; why she has not complied with the existing case management order; and setting out what her claim is about in more detail.

#### Other matters

10. All judgments and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

#### Useful information

11. The attention of the parties is drawn to the Presidential Guidance on 'General Case Management', which can be found at: [www.judiciary.gov.uk/publications/employment-rules-and-legislation-practice-directions/](http://www.judiciary.gov.uk/publications/employment-rules-and-legislation-practice-directions/)
12. The Employment Tribunals Rules of Procedure are here: <https://www.gov.uk/government/publications/employment-tribunal-procedure-rules>
13. Instead of or as well as an application for reconsideration, the Claimant can appeal to the Employment Appeal Tribunal if she thinks a legal mistake was made in an Employment Tribunal decision. There is more information here: <https://www.gov.uk/appeal-employment-appeal-tribunal>
14. The parties are reminded of rule 92: "*Where a party sends a communication to the Tribunal (except an application under rule 32) it shall send a copy to all other parties, and state that it has done so (by use of "cc" or otherwise)...*". **If, when writing to the tribunal, the parties don't comply with this rule, the tribunal may decide not to consider what they have written.**
15. The parties are also reminded of their obligation under rule 2 to assist the Tribunal to further the overriding objective and in particular to co-operate generally with other parties and with the Tribunal.

**Employment Judge Allen QC**

Date: 23 November 2020