



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr S Lloyd

**Respondent:** Robyn Jones t/a Bob Jones & Sons

**Heard at:** Cardiff, by video

**On:** 9 December 2021

**Before:**

**Representation**

Claimant: Did not attend

Respondent: Mr Aled Jones, Solicitor

## JUDGMENT

The Claimant's claim is dismissed under Rule 47 of the Employment Tribunal's Constitution & Rules of Procedure Regulations 2013.

## REASONS

- 1) The hearing today was a final hearing listed to hear the Claimant's complaint about unfair dismissal. The Claimant was one of three claimants, the claims had been joined together. The other claimants were Mr Jones and Mr Childes, under case numbers 1601947/2020 and 1601948/2020.
- 2) The Claimant did not attend, although the other two claimants, Mr Jones and Mr Childes did attend.
- 3) Rule 47 of the Employment Tribunal Rules states:

*"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."*

- 4) I asked the other claimants and the Respondent's representative if they had been in contact with the Claimant recently.
- 5) Mr Jones, the First Claimant, explained that he had previously tried to support the Claimant in relation to preparing a witness statement but that recently the Claimant had not participated at all and had not replied to attempts to contact him.
- 6) Mr Aled Jones, for the Respondent, stated that there had been no contact from the Claimant and that the Claimant had not provided a witness statement.
- 7) I considered the file and noted the following:
  - a. 9 March 2021 the Claimant emails the Tribunal and says he does not have the technology to sit on hearing via video link.
  - b. 9 July 2021 – a case management preliminary hearing took place and the Claimant did not attend.
  - c. 12 July 2021 the Claimant emails the Tribunal saying that the First Claimant can be the main spokesperson and that he agrees to participate in next case meeting.
  - d. The Order from the Case Management Preliminary Hearing stated that the final hearing was suitable to take place via video unless any party objected within 7 days. The Claimant did not write to object or express any concerns with a video hearing.
  - e. On 12 November 2021 the Tribunal wrote to the parties to explain the hearing will be converted to wholly remote video hearing unless there was any objection within 7 days. The Tribunal also explained all parties were required to lodge a witness statement. The Claimant did not write to object or express any concerns with a video hearing.
  - f. On 24 November 2021 the First Claimant emails the Tribunal and says he thinks the Claimant doesn't know how to use computer but that he has told the Claimant to write a w/s and he can upload it for him and that he can't do any more.
  - g. On 24 November 2021 the Tribunal sent the Notice of Hearing to the parties with details of test clinic and also asked the Claimant for comments on the fact he had not provided a witness statement. The Claimant did not reply.
  - h. On 6 December 2021 the Tribunal wrote to the Claimant again in relation to provision of a witness statement. The Claimant did not reply.
- 8) The clerk telephoned the Claimant at approximately 10.30 am, the hearing stated at 10.00am. He stated that he had no access to CVP, was off work due to covid but that he had instant access to email. The clerk explained that he would be sent an email that he needed to respond to.
- 9) The clerk, on my instruction, emailed the Claimant. The Claimant did not reply.
- 10) At approximately 11.23 am the clerk attempted to telephone the Claimant again, but he did not answer. A voice message was left asking him to respond.
- 11) There was no reply from the Claimant by 11.30am.

- 12) The Respondent's representative submitted that the Claimant had not provided any witness statement to date and that even if he was to attend the final hearing today, he should not be permitted to give evidence and that the facts suggested he did not wish to play any part in the claim. He also submitted that it would be necessary to postpone the hearing in relation to the claims for the First and Second Claimant also as continuing in his absence today but re-listing a hearing for the Claimant would be a waste of time and money for the Respondent and the Tribunal.
- 13) The First Claimant stated he had tried to help the Claimant but that the Claimant had not tried, the last contact was 3 or 4 weeks ago when the Claimant told the First Claimant that he would do a statement. The First Claimant submitted that it was the same process for all three workers. The Second Claimant had no further comments.
- 14) I considered all of the above.
- 15) In particular I noted that the Tribunal has written to the Claimant several times and although back in March 2021 he said he could not attend a video hearing since then he has written to say he will attend next hearing and not responded at all to the Tribunal's requests regarding confirmation of hearing format and/or provision of witness statement. I further noted that the Claimant has got access to email and can use email.
- 16) The Claimant had not engaged with the other parties recently and has not, by any form – either email, letter or telephone, contacted the Tribunal to set out any difficulties he may have with attending the final hearing despite being asked for comments on several occasions.
- 17) The Claimant has made no application for postponement of the final hearing. During the telephone call with the clerk, he referenced being off work due to COVID but there was no medical evidence before me.
- 18) The Claimant did not respond, either by email or a return call, to the email sent to him making enquiries about his non-attendance by 11.30 am on the first day of the hearing.
- 19) I determined that it would not be in the overriding objective to list his claim for a final hearing to take place another day or to postpone the hearing for the other two claimants. I considered that either approach would be prejudicial to the Respondent and incur additional costs and lead to further delay for the First and Second Claimant as re-listing a two-day hearing could take many months.
- 20) In the absence of any reasonable explanation from the Claimant for his non-attendance and also noting his failure to provide a witness statement I determined it was appropriate to exercise my powers under rule 47 and dismiss the claim.

21)The hearing will continue in relation to the First and Second Claimant.

Employment Judge G Cawthray

Dated: 29 December 2021

JUDGMENT SENT TO THE PARTIES ON 13 January 2022

FOR THE TRIBUNAL OFFICE Mr N Roche

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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