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EMPLOYMENT TRIBUNALS

Claimant: Michelle Freeborn

Respondent: A D Super Ltd

Heard at: East London Hearing Centre (by Cloud Video Platform)

On: 24 November 2021

Before: Employment Judge Housego

Representation

Claimant: Did not attend, was not represented and sent no representations

Respondent: None (representative attempted to join the cvp hearing, but did not press “start” so did not join the hearing).

JUDGMENT

The claims are struck out under Rule 47.

REASONS

Background

1. At noon, the appointed time, no-one was in the hearing. I telephoned the mobile number for the Claimant on the claim form, but it was not answered. I did not leave a message. It was not that the Claimant was trying to join a telephone hearing and so the line was engaged, because this was a CVP hearing. There was no contact from the Claimant to explain her absence. The notice of hearing appeared to be in order.

Law

2. Rule 47 provides:

“Non-attendance

47. 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.”

3. The case law about non-attendance in regulatory proceedings is helpful: General Medical Council v Hayat [2018] EWCA Civ 2796, at paragraphs 32-43. That case stresses the need for medical evidence, and that such evidence must address the issue of whether the person is or is not fit to attend a hearing. There was no request for an adjournment.
4. In the Employment Tribunal the older case of Teinaz v London Borough of Wandsworth [2002] EWCA Civ 1040, at paragraph 21 and 22 is similar in tenor: *“the tribunal or court is entitled to be satisfied that the inability of the litigant to be present is genuine, and the onus is on the applicant for an adjournment to prove the need for such an adjournment”*.
5. In this case the non-attendance of the Claimant is unexplained, and I have made enquiry of the Claimant.

Decision and Reasons

6. It is the duty of litigants to attend their hearings. The Claimant did not attend. There is no documentary evidence which might lead to the claim succeeding. Accordingly, I struck out the claim under Rule 47.

Employment Judge Housego

25 November 2021