



# THE EMPLOYMENT TRIBUNAL

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**SITTING AT:**  
**BEFORE:**  
**BETWEEN:**

**LONDON CENTRAL  
EMPLOYMENT JUDGE ELLIOTT**

**Mr A I Musa**

**Claimant**

**AND**

**Elior UK plc**

**Respondent**

**ON: 15 February 2022**

**Appearances:**

**For the Claimant: No appearance**

**For the Respondent: Ms R Jessop, solicitor**

## **JUDGMENT**

The Judgment of the Tribunal is that the claim is dismissed under Rule 47.

## **REASONS**

1. By a claim form presented on 5 March 2021 the claimant Mr Abubakar Ibrahim Musa brings a claim of unfair dismissal. The claimant gave his dates of employment with the respondent as from 11 November 2016 to 2 February 2020. He worked as a general assistant.
2. The respondent gave the claimant's dates of employment as from 21 November 2016 to 30 June 2019 and if these dates were correct, the claim was out of time.

### **This remote hearing**

3. The hearing was a remote public hearing, conducted using the cloud video platform (CVP) under Rule 46. The tribunal considered it as just and equitable to conduct the hearing in this way.
4. In accordance with Rule 46, the tribunal ensured that members of the public could attend and observe the hearing. This was done via a notice

published on Courtserve.net. No members of the public attended.

5. The participants were told that it was an offence to record the proceedings.

#### **The dismissal of the claim under Rule 47**

6. The claimant failed to attend this hearing. Rule 47 of the Employment Tribunal Rules of Procedure 2013 provides as follows:

*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 enquired of the respondent's solicitor as to what communication they had received from the claimant. I was told that the solicitors had not heard from the claimant since 19 January 2022, four weeks ago, when the claimant responded to email correspondence by telephoning Ms Jessop. I was told that in that telephone conversation the claimant told Ms Jessop that he did not wish to proceed with his claim.

8. Ms Jessop confirmed that telephone conversation in an email to the claimant of 19 January 2022 at 12:45 asking him to inform the tribunal without delay, otherwise the hearing would go ahead (hearing bundle page 89). Ms Jessop informed the claimant that she could not advise him and suggested he take independent legal advice or contact the ACAS officer. She provided the contact information for the ACAS officer. No reply was received.

9. On 9 February 2022 on the instructions of Employment Judge Baty, the tribunal sent an email to the claimant saying:

*"I refer to the respondent's email of 8 February 2022. Whilst the respondent confirms it is ready to proceed with the hearing, it also states that it has had no contact from the claimant since 19 January 2022 and that the claimant has failed to comply with any of the orders in preparation for the hearing. If, therefore, it is the case that the claimant is no longer pursuing this claim and seeks to withdraw it, the tribunal would be grateful if the claimant could inform the tribunal and the respondent of that straight away so that the hearing can be taken out of the tribunal's list. The claimant should also be aware of the increased risk of a costs order being made against him if he does not so inform the tribunal and the respondent but simply does not appear at the hearing."*

10. Joining instructions for this CVP hearing were sent to both parties by email at 16:23 hours the day before this hearing.

11. At the start of this hearing, I asked the tribunal's administration to check whether any email had been received from the claimant and was told that

nothing had been received from him.

12. I asked the respondent what they wished the tribunal to do and was told that they wished the tribunal to dismiss the claim under Rule 47.
13. Having considered the information that was available to me and having made such enquiries as were practicable and taking account of the information from the respondent's solicitor that the claimant had informed her that he did not wish to proceed with the claim, I agreed to dismiss the claim under Rule 47 as a result of his non-attendance. I also took account of the information from the respondent, that the claimant had failed to comply with any of the Case Management Orders.
14. A costs warning was given by the respondent to the claimant in a letter dated 12 January 2022 (hearing bundle page 75).
15. I asked about the respondent's position as to an application for costs. They wished to reserve their position as to an application for costs against the claimant and they are aware of the time limit under Rule 77.

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**Employment Judge Elliott**  
**Date: 15 February 2022**

Judgment sent to the parties and entered in the Register on: 15 Feb. 22  
\_\_\_\_\_ for the Tribunal