



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr A James

**Respondent:** Listen Limited, in voluntary liquidation

**Heard at:** Croydon

**On:** 14 November 2022

**Before:** Employment Judge Barker

**Representatives**

**For the claimant:** No attendance

**For the respondent:** No attendance

## JUDGMENT

The claimant's claim before this Tribunal under case number 2305851/2021 for a protective award is dismissed. The claimant's claim for a protective award under case number 3325565/2019 in the Bury St Edmunds Tribunal is unaffected and proceeds to the listed hearing on 12 December 2022.

The claimant's claims in this Tribunal for unfair dismissal, a redundancy payment, breach of contract and holiday pay are dismissed.

## REASONS

1. The claimant did not attend the hearing listed for today and did not respond to the clerk's attempts to contact him by email or mobile phone. The respondent also did not attend.
2. The claimant is part of a claim in the Bury St Edmunds Tribunal for a protective award brought by multiple claimants which had, at the time this claim (2305851/2021) was submitted on 15 December 2021, been struck out as it was not being actively pursued. The claimants successfully applied for reconsideration of that decision. The multiple claim for a protective award is proceeding in the Bury St Edmunds Tribunal and is listed for a hearing on 12 December 2022.

3. It is an abuse of process to bring a claim to the Tribunal which is the same as one being pursued elsewhere in the Tribunal system. It is understood that the claimant did this as a precautionary measure and the duplicate claim in the London South Tribunal is hereby dismissed.

4. The claimant brings claims for unfair dismissal and a redundancy payment. The claimant does not have two years' service, by his own account. The Tribunal has no jurisdiction to consider these claims and they are hereby dismissed.

5. The claimant brings claims for breach of contract and unpaid holiday pay. He did not begin ACAS Early Conciliation until 13 December 2021, having left the respondent's employment in August 2019. He submitted the ET1 form to this Tribunal on 15 December 2021. These claims were not presented within three months (plus time spent in Early Conciliation) of the effective date of termination (in the case of the breach of contract claim) or of the date payment should have been made (in the case of the holiday pay claim). The claimant has presented no evidence as to why it was not reasonably practicable to present the holiday pay or breach of contract claims any sooner.

6. Furthermore, it is appropriate to strike out the claimant's claims in this Tribunal as they are not being actively pursued (Rule 37 Employment Tribunal Rules of Procedure 2013).

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Employment Judge Barker

Date: 14 November 2022

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