



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr D Cullinane

**Respondent:** Accurate Insulation Ltd (In Voluntary Liquidation) (R1)  
And  
Accurate Property Services NW Ltd (R2)

**HELD AT:** Cloud Video Platform (Manchester)      **ON:** 17 November 2022

**BEFORE:** Employment Judge Mellor

**REPRESENTATION:**

**Claimant:** No attendance or representation

**Respondent:** Mr Clapp (Litigant In Person)

## JUDGMENT

1. The claimant having failed to attend or to be represented at the full merits hearing listed on the 17 November 2022, his claims are dismissed under Rule 47, Schedule 1 of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013.

## REASONS

2. The claimant submitted a claim on 1 March 2022 for (1) notice pay (2) unlawful deduction from wages and (3) holiday pay. The respondents resisted the claim in a joint response.
3. The claim was listed for a hearing today, 17 November 2022. By a notice of hearing dated 22 March 2022 the tribunal made case management orders for the hearing including that the claimant must send to the respondent a document setting out how much he is claiming and how that was calculated together with any supporting evidence.
4. In response to an email from the respondent received 16 November 2022 about today's hearing the Tribunal wrote to both parties and confirmed that the hearing remained listed in accordance with the notice of hearing, that it

would be a remote hearing and reminded both parties of their obligations under the previous case management orders.

5. Rule 47 of the Employment Tribunal Rules of Procedure 2013 ('the 2013 Rules') provides that 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.
6. The Tribunal received no prior notification of the claimant's intended absence. The hearing did not commence until 10.45 to allow time for the Tribunal's clerk to contact the claimant. Two telephone calls were placed, neither were responded to. The CVP link was emailed to the claimant but he did not join the hearing, nor did he respond to the email or contact the Tribunal.
7. The claimant did not comply with the case management orders and had not provided any documentation or evidence (beyond that which was contained in his ET1 which was incomplete). The burden was on the claimant to prove his claim. The Tribunal does not have a duty, of its own motion, to investigate the case before it. Nor is the Tribunal required to satisfy itself that, on the merits, the respondent has established a good defence. There was no request for a postponement or an adjournment. Having regard to the overriding objective, I do not consider it fair or just to postpone the case of the Tribunal's own volition given the claimant's failure to comply with the case management order.
8. In all the circumstances, the Tribunal decided to dismiss the claimant's claim for non-attendance pursuant to Rule 47 of the 2013 Rules.

Employment Judge Mellor  
17 November 2022

JUDGMENT SENT TO THE PARTIES ON  
18 November 2022

FOR THE TRIBUNAL OFFICE

Notes

Judgments and reasons for the judgments are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.