

CE



THE EMPLOYMENT TRIBUNALS

Claimant: Miss N Benahmed
Respondent: Superdrug Stores PLC
Heard at: East London Hearing Centre
On: 6 October 2022
Before: Employment Judge Barrowclough

Representation

Claimant: Did not attend and was not represented
Respondent: Mr Ryan (counsel)

JUDGMENT

The Claimant's claim is dismissed on her failing to attend the preliminary hearing on 6 October 2022.

REASONS

1 By her claim, presented to the Tribunal on 20 November 2021, the Claimant raised a number of allegations of disability discrimination, including a failure to make reasonable adjustments, against the Respondent as her former employer. The disability apparently relied upon by the Claimant is a mental impairment described as a 'mixed anxiety and depressive disorder'. The Respondent accepted that it had employed the Claimant as an assistant manager designate from 26 May 2020 to 3 November 2021 when her employment was terminated, and disputed and resisted all the Claimant's claims.

2 The Claimant failed to attend and/or be represented at the telephone preliminary hearing on 6 October 2020. Unfortunately, there is a history of non-attendance by the Claimant at Tribunal hearings, coupled with failure to actively pursue her case.

3 The Claimant failed to attend or to be represented at an earlier preliminary hearing before Regional Employment Judge Taylor on 20 June 2022, when a strike out warning was issued because the Claimant had failed to comply with the Tribunal's orders dated 23 February 2022, and had not actively pursued her claim. The Claimant was given the opportunity to write to the Tribunal on or before 1 July 2022 if she wished to object to her claim being struck out, and did so by means of a handwritten letter dated 29 June 2022. Accordingly, and in the light of the Claimant's letter, Regional Employment Judge Taylor decided not to strike out the Claimant's claim since it did not appear to be in the interests of justice to do so, but went on to warn the Claimant that she risked having her claim struck out if there was a further breach of the Tribunal's orders, and that she should comply with the case management orders made at the hearing on 20 June 2022.

4 A further telephone case management hearing was deemed necessary and appropriate, in order that the claims or complaints being advanced by the Claimant could be clarified, and on 11 August 2022 the parties were given notice of a telephone preliminary hearing date of 6 October, nearly two months thereafter. There was no indication on the Tribunal file from the Claimant that that hearing date was unacceptable, inconvenient, or not possible for her to attend; and Mr Ryan informed me that his solicitors had not received any such indication from the Claimant.

5 Mr Ryan also informed me that the Claimant has failed to provide the further particulars or information concerning the alleged acts of discrimination on which she relied, and the basis upon which those acts contravened the Equality Act 2010, which were ordered to be provided by her by 23 September 2022 in the Tribunal's order arising from the hearing on 20 June 2022.

6 Finally, Mr Ryan drew my attention to pages 35-37 in the short bundle provided for this hearing. They comprised an email letter from the Respondent's solicitors to the Claimant dated 4 April 2022 enclosing a draft list of issues for her to complete and to assist her in formulating her claim. I was told that the Claimant has failed to respond to those documents as well.

7 Bearing all these matters in mind, when the Claimant (or anyone on her behalf) failed to attend the telephone preliminary hearing at 10am on 6 October 2022, and having waited approximately 20 minutes, during which time I listened to and noted Mr Ryan's submissions, I decided to dismiss the Claimant's claim due to her failure to attend or to be represented at the hearing, pursuant to Rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013. I make plain that, had this been an open preliminary hearing, I would have been minded to strike out the Claimant's claim on the basis of non-compliance with the Tribunal's orders and directions and because it had not been actively pursued, in addition to dismissing it under Rule 47. Mr Ryan also asked me to note that, should the Claimant seek

reconsideration of this judgment or for the case to be otherwise reopened, the Respondent would then raise and pursue an application for costs.

Employment Judge Barrowclough

11 October 2022