



EMPLOYMENT TRIBUNALS

Claimant: Mr Alistair Payne

Respondent: TMS Limited

Heard at: Nottingham by CVP

On: 9 October 2024

Before: Employment Judge Cansick

Representation

Claimant: No attendance

Respondent: Mr W Baylis-Allen, Counsel

JUDGMENT

The claimant's claim is dismissed pursuant to Rule 47 of the Employment Tribunal Rules of Procedure 2013.

REASONS

1. The matter was listed for a final hearing on 9 October 2024. The claimant did not attend the hearing. The respondent's representative attended.
2. Pursuant to Rule 47, if a party fails to attend or be represented at the hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party.
3. The hearing today was originally listed for a final hearing. On 6 October 2024, the claimant wrote to the Tribunal stating that he did not have the strength to carry on with the claim and that he may not be able to attend the hearing on 9 October 2024, because of a possible hospital appointment.
4. Following this correspondence, Employment Judge Heap refused to postpone the hearing but instead converted it to a preliminary hearing to hear the application of the respondent for strike out and if the claimant did not attend to consider Rule 47. It was noted by the judge that there was no medical evidence or evidence of a hospital appointment from the claimant. It was further noted that the claimant had only stated they may have an appointment. This decision was communicated to the parties on 8 October 2024.

5. The claimant further wrote to the Tribunal on 9 October 2024, stating he was unable to attend the hearing. No reason was stated and there was no medical evidence submitted or evidence of a hospital appointment.
6. The claimant was provided with a Notice of Final Hearing, dated 9 July 2024. That included numerous Case Management Orders for the parties. The claimant has not complied with any of those orders. The respondent has complied as far as possible. The respondent has also notified the claimant and the Tribunal on occasions regarding the claimant's failure to comply.
7. I am satisfied that the claimant had notice of today's hearing and has chosen not to attend. The claimant has further chosen not to comply with any of the Case Management Orders. I have no evidence to find that the claimant would attend proceedings in the future. I consider the appropriate course is to dismiss the claim. There is insufficient evidence to determine the claim in the claimant's absence. I have considered the overriding objective in Rule 2 in reaching this conclusion.

Employment Judge Cansick

Date: 9 October 2024

JUDGMENT SENT TO THE PARTIES ON

.....18 October 2024.....

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FOR THE TRIBUNAL OFFICE