



# EMPLOYMENT TRIBUNALS

**Claimant**

**Ms C Wilson**

**v**

**First Respondent**

**Northants Accounting Limited**

**Second Respondent**

**Mr Nishi Patel**

**Heard at: Cambridge, (By CVP)**

**On: 10 June 2024**

**Before: Employment Judge Brown,**

**Members:**

**Ms Limerick**

**Mr Grant**

**Representation:**

**Claimant: No attendance & not represented**

**Respondent: Ms Younas, Solicitor**

## JUDGMENT

**The Claimant's claim is dismissed pursuant to Rule 47 of Schedule 1 to the Employment Tribunals (Constitution & Rules of Procedure ) Regulations 2013**

## REASONS

### Background

- 1 The Claimant was employed by the Respondent from 23 August to the 26 August 2022 as a Business Development Executive.
- 2 Following a period of Early Conciliation from 5 September 2022 to 17 October 2022, the Claimant presented a Claim Form on 21 December 2022 pursuing claims for Harassment [s.26], Direct Discrimination [s.13], and Victimisation [s.27] contrary to the Equality Act 2010 on the grounds of race.
- 3 By a Response Form filed on 13 February 2023, the Respondent resisted the claims, and denied that any treatment of her in any way related to, or was because of her race, or was because she had raised a grievance complaining about race discrimination.
4. The notice of this hearing, set to be heard from the 10 – 12 June 2024, was set down at a Preliminary Hearing conducted by myself on the 27 November 2023, and as set out in my Case Management Order sent to the parties on the 13 December 2023.
5. The previous Preliminary Hearing in Huntingdon on the 27 November 2023, had originally been a final hearing and was converted by Judge Ord to a Preliminary Hearing before myself that day and this was due to the parties not being ready for the hearing as arguments had ensued over the hearing bundle.
6. In addition at that Preliminary Hearing a costs application had been made by the Respondent at which allegations were made about the Claimants failure to comply with the orders made to prepare for the hearing. In the event another costs application was repeated today, and it was ordered such application would be dealt with in writing either on paper, or by way of a further costs hearing.

7. The Claimant did not attend the hearing today and we noted that my previous order that the Claimant disclose her bank statements by the 11 December 2023 had not been complied with.
8. In addition no supplementary witness statement had been prepared by the Claimant as ordered by me at that hearing, at which her solicitors had represented her, nor had the Claimant prepared any supplementary bundle as ordered, and at today's hearing she had also not sent her main witness statement to the Respondents despite them indicating that they were ready to exchange statements.
9. The clerk to the Tribunal telephoned her today, and stated that a hearing was taking place today at 10.00 am that she was required to attend. The Claimant asserted that she did not know about the hearing. She then asserted she had been trying to obtain some documents from her previous employer but they hadn't replied to this request, and that she still didn't have her P.45, and that her lawyers had tried to contact them as well. The clerk indicated that a link had been sent to her so that she could join the hearing by CVP, and that we were waiting for her to join the hearing. She replied by asking whether that meant 'right now right this second?' and the clerk confirmed that was correct. After a short lapse of time the call then disconnected.
10. The clerk then tried to call her back and the call was not answered. The clerk called again and on the third occasion a longer call took place. On this call she repeated that she was not aware of today's hearing but then advised that she had just come across a variety of emails in her inbox that she had never read before. The Clerk then advised her of an email from her Solicitor Mr Hyland of PJH Law where they advised the Tribunal by way of email on the 12 December 2022, and which they attached and also sent again by way of an attachment to an email on the 20 May 2023, that they were no longer instructed by, or represented the Claimant. The Claimant stated that she had not given them permission to pass on her personal contact details to the Tribunal. She became distressed and said that she was going through radiotherapy and wanted to lead a happy life with her husband.
11. She also confirmed that she could not attend the hearing as she was at work in her HR role.
12. The clerk also asked her to confirm this in writing and she replied that, 'I am typing this now.'

13. This Tribunal had no evidence of the Claimants ill-health. We also noted that she stated that she was at work at the time of this hearing.
14. We also noted that she had been sent the pre hearing checklist as evidenced by the email to her email of the 28 May 2022 from the Employment Tribunal which she was advised she must fill in and return by the 31 May 2022, and this pre-hearing checklist referred to the final hearing of today's date for three days.
15. She was called three times and she made clear she was not attending the hearing today. She was clearly well enough to be at work and so was clearly well enough to attend the hearing today. She hadn't contacted the Tribunal in advance of today to say she wouldn't be coming. We were satisfied she knew about the hearing today.
16. She said was going to email ET with confirmation of why she did not attend and told the clerk that at around 10.30 am. We waited until 11.30 but no email arrived attaching any actual evidence of ill health.
17. Rule 47 of Schedule 1 to the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013, the "Tribunal Rules", 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 parties' absence."*
18. We are satisfied the Tribunal made such enquiries as were practicable about the reason for the Claimant's non-attendance. The Tribunal made telephone contact with the Claimant and having only been told that she was unwell due to radiotherapy. We do not consider this to be a valid explanation in the absence of any medical evidence or a detailed explanation. It was incumbent upon the Claimant to fully explain her reason for not attending this hearing, including providing details of her medical condition and why she had not informed the Tribunal or the Respondent's representative that she would not be attending this hearing. I was satisfied from the Tribunal file and from the calls made by the clerk today that the Claimants assertion she was not aware of this hearing were unfounded, and she made no attempt to make contact either with the Tribunal or the Respondent's representative to explain her non-attendance prior to the Tribunal contacting her today.

19. We did not consider it appropriate to hear the claim in the Claimant's absence given the nature of the claim and the issues before the Tribunal, and that it required the Claimant to give evidence.
20. We also considered and gave full effect to the Tribunal's overriding objective (Rule 2 of the Tribunal Rules). In the circumstances, we concluded that dismissing this claim under Rule 47 was proportionate and in accordance with the Tribunal's overriding objective. The claim is dismissed.

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**Employment Judge Brown**  
**Date:10 June 2024**

Sent to the parties on:  
11 June 2024

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For Secretary of the Tribunals

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