



## EMPLOYMENT TRIBUNALS (SCOTLAND)

Case Number: 4107435/2023

Mr A McNairn

Claimant

C J Lang & Son Limited

Respondent

## JUDGMENT

The claim is struck out under rule 37 of the Rules contained in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 on the grounds of non-compliance with an Order of the Tribunal in terms of rule 37 (1)(c) and that the claim has not been actively pursued in terms of rule 37(1)(d).

## REASONS

1. At a preliminary hearing was held on 15 February 2024, various Orders were made of the claimant and dates for compliance given, the claimant has failed to comply with the Tribunal Orders and the respondent's representative applied for strike out by e-mail dated 24 June 2024.
2. A further preliminary hearing was held on 28 May 2024 before Employment Judge Hosie, paragraph 5 of the Note refers: *"I order Mr McNairn, therefore, to comply with Judge Bradley's Orders, within 14 days of receipt of this Note. I made it clear to him that even if he is unable to arrange alternative representation, he will still require to respond himself. I explained to Mr McNairn that the Tribunal was well used to dealing with cases where a claimant is not represented. However, I also made it clear that should he fail to comply with Judge Bradley's orders, steps would be taken to strike out his claim, as I had to*

*be fair to both parties”.*

3. No response was received from the claimant and by letter dated 27 June 2024 the claimant was asked *“to write to the Tribunal within 7 days to explain the delay in complying with the Order of the Tribunal and to provide comments on the respondent’s application to strike the claimant out on the basis that the claimant has failed to comply with the Tribunals orders and the claim has not been actively pursued. If no reply is received within 7 days, a strike out warning will be issued”.*
4. The claimant replied by e-mail on 28 June 2024 advising that *“I’ve spoken to the law society but at the time of talking to them someone from acas called telling me cj Lang wanted to settle so when I spoke to law society it was to get advice on how much to ask for so I called back acas ad I’m still waiting to hear back thank you”.*
5. On 2 July 2024 the Tribunal sent a further letter to the claimant advising that whilst the Tribunal notes that the claimant raised the possibility of settlement discussions via ACAS, such does not preclude the claimant from complying with Tribunal Orders.
6. By e-mail dated 9 July 2024 the respondent’s representative renewed the application to strike out the claim *“as a result of the continued non-compliance with the Orders, reference to Rule 37(1)(c) and (d)... as indicated by Judge Hosie in the PH Note of 28 May 2024, paragraph 5”.*
7. By letter dated 12 July 2024 the Tribunal gave the claimant an opportunity to give written reasons by 26 July 2024 or to request a hearing in order to consider why the claim should not be struck out. No reply has been received.
8. The claimant has failed to give reasons why such a judgment should not be made or to request a hearing. The Tribunal therefore strikes out the claim.

<b>Employment Judge:</b>	<b>P O’Donnell</b>
<b>Date of Judgment:</b>	<b>30 July 2024</b>
<b>Entered in register:</b>	<b>31 July 2024</b>
<b>and copied to parties</b>	