



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Miss H Wright

v

Jemella Limited (t/a GHD)

PRELIMINARY HEARING

Heard at: Leeds On: 26 March 2018

Before: Employment Judge Wedderspoon

Appearance:

For the Claimant: Did not attend

For the Respondents: Miss T Barsam, of Counsel

JUDGMENT

1. The claimant's claim be dismissed.

REASONS

1. This matter was listed for a Preliminary Hearing on 26 March 2018 to deal with the respondent's application for a deposit order under rule 39 of the Schedule 1 of the Employment Tribunal (Constitution & Rules of Procedure) Regulations 2013.
2. The claimant was notified by the Employment Tribunal of a hearing at 10:00am on 26 March 2018 by letter dated 13 March 2018 sent via an email address provided by the claimant on her ET1 and to her home address.
3. The respondent sent a copy of the Agenda for the Preliminary Hearing listed today to the claimant on 22 March 2018, she did not respond to the Agenda. There has been no contact by the claimant to the Employment Tribunal.
4. The Tribunal clerk made enquiries by contacting the claimant's mobile telephone number. The claimant told the Tribunal clerk that she was at work and could not attend today and she had been unsure as to how to postpone the case. She stated she had contacted a firm of solicitors but was initially unsure who it was and then said it was Blacks solicitors but she could not recall the name of the individual that she had spoken to. She thought that the solicitor had contacted the Tribunal some time last week to request a postponement. She stated the solicitor had not confirmed to her that the Tribunal had been contacted to seek a postponement. The Tribunal has no trace of receiving an email or any contact from a solicitor instructed by the claimant.
5. Miss Barsam makes an application to strike out the case pursuant to rule 47 of Schedule 1 of the Employment Tribunal (Constitution & Rules of Procedure)

Regulations 2013. She submits that the claimant has failed to attend, she has not placed any solicitors on record, she was corresponded to via email on Thursday of last week with the list of issues in preparation for the Preliminary Hearing, she failed to respond to that Agenda and in fact has taken no further steps. In all the circumstances she submitted this does not really indicate a claimant who is pursuing a claim and therefore dismissal is proportionate. If for any reason it is a fault of solicitors in failing to postpone she has recourse against them and furthermore the Tribunal respondent should not be fixed with the costs or inconvenience of attending a hearing which is not pursued by a claimant. She further states that if the claimant has information that she can put before the Tribunal she could seek a reconsideration in the interests of justice to set a dismissal of her claim aside.

6. In my judgment there is not sufficient material evidence before me to indicate that this claimant is engaged in this process. The claimant was corresponded to on two occasions via email and to her home address to notify her of the hearing today, she had not contacted the Employment Tribunal herself, she has been unable to identify who from the solicitors firm of Blacks has contacted the Employment Tribunal. Furthermore she has had no confirmation that they have sought to postpone this particular hearing.
7. In considering any application under the Rules the Tribunal must bear in mind the overriding objective. The overriding objective states that cases should be dealt with fairly and justly but they should be dealt with in ways which are proportionate to the complexity and importance of the issues and that delay should be avoided as should expense. I am not satisfied that the claimant is engaged in this process. She has failed to respond to the correspondence of the Employment Tribunal and that of the respondent. If the claimant has material she can put before the Tribunal to establish that she had taken steps to postpone today's case the Tribunal can take account of that pursuant to a reconsideration application made by the claimant but for the moment I am not satisfied that the claimant is engaged in this process. It is therefore pursuant to the overriding objective, bearing in mind the factors of delay and saving expense, I have decided to dismiss this claim.
8. The claimant of course has the right to make an application for a reconsideration of this order if she has material to establish that she is truly engaged in this process. I also note on file, on the basis of the respondent's application, that they seek to reserve their position in respect of the costs wasted today.

Employment Judge Wedderspoon

Date: 01/05/2018