



**EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: 4123128/2018**

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**Held in Glasgow on 22 March 2019**

**Employment Judge: Rory McPherson**

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**Miss Z Knapper**

**Claimant**

**No appearance and**

**No representation**

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**InnSeagan House Hotel Ltd**

**Respondent**

**Represented by**

**W Lane -**

**Solicitor**

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**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

The Judgement of the Employment Tribunal is that the claim is dismissed in terms of rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 Schedule 1.

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**REASONS**

**Introduction**

**Preliminary Procedure**

1. The claimant submitted a claim for unfair dismissal, arrears of pay including unpaid holiday pay and notice pay to the Tribunal in which he claimed that he  
30 had been unfairly dismissed by the respondents. Her claim was presented to the Tribunal on 22 November 2018 and narrated that she had been unfairly dismissed on 20 September 2016.

2. The respondents ET3 rejected the claimant's claims setting out their asserted

35 factual position and made 2 preliminary points. They asserted that the Early **E.T. Z4**  
**(WR)**

Conciliation (EC) process was not followed in respect that the EC certificate  
relied upon was in the name of Mrs Judith Parker and not the respondent.  
Secondly, they asserted the claimant did not have sufficient qualifying service.  
In particular they identified that the claimant's ET1 stated that her employment  
5 commenced on 12 February 2018 and that she was dismissed on 20  
September 2018. Further in their ET3 they asserted that the relevant period  
of employment in which the claimant was employed by them was from 22  
June 2018 until 29 November 2018. The respondent asserts in the ET3 that  
all notice pay was paid and that they were arranging to pay outstanding  
10 holiday pay at the date of the issue of the ET3. The respondent asserts that there are  
no other arrears of pay.

3. A Preliminary Hearing was fixed in order to decide whether or not the current claim  
could proceed having regard to length of service and relevancy of the Early  
Conciliation Number on the ET1.

15 4. At the date and time fixed for the hearing, the respondent's representative was  
present and ready to proceed. They had prepared a set of documents which  
they would have sought to rely upon in support of their position and which they  
would have provided to the to the claimant at the commencement of the  
hearing. In addition, they had arranged for the attendance of 2  
20 witnesses for the respondent Mrs J Parker and a Mr G Smith both of whom  
are based at the respondent's place of work.

5. The claimant was not present. It being identified that the claimant was not present  
the Tribunal clerk telephoned the mobile telephone number provided by the  
claimant in her ET1. This went to an answering service and the Tribunal  
25 left a message for the claimant to contact the Tribunal urgently. By 10.55 am almost  
an hour after the time fixed for the hearing to commence, there was still no  
appearance on the part of the claimant nor was there any response to the  
answer message. Shortly after 11.10 and there was still no appearance.

6. The Respondent's agent moved that the claim be dismissed in terms of Rule

30 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations  
2013 Schedule 1 (the 2013 ET Rules).

### Relevant Law

7. Rule 47 of the 2013 ET Rules provide that 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 but, before doing so, shall 5 consider any information which is available to it, after any enquiries that may be practicable about the reasons for the party's absence.

### Discussion and Decision

8. In terms of rule 47, I considered the information available to me. I had no information whatsoever about the reason for the claimant's absence. There 10 was no information to suggest that any disputed payment remained outstanding. The letter advising the claimant of the date and place for the hearing had gone out on 2 February 2019 to the address the claimant had provided in her ET1. There had been no contact between the claimant and the Tribunal since then. In the circumstances the Tribunal concluded that the 15 claimant did not insist upon her claim.

9. I reminded myself that a claimant has a right to seek a reconsideration, in the interests of justice, under Rules 70 and 71 of the 2013 ET Rules, within 14 days of the issue of this Judgment to parties. However, there has been no communication to the Tribunal prior to this hearing and such a reconsideration  
20 would be subject to a proper explanation being provided to the Tribunal for the claimant's non-attendance. The respondent is understood to reserve its position on seeking to recover any expenses incurred in the event of a reconsideration application being made without proper explanation for today's non- attendance.

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### Conclusion

10. In the circumstances the claimants claims including for unfair dismissal, holiday pay, notice pay and other arrears of pay are dismissed.

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**Employment Judge**

**R McPherson**

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**Date of Judgment**

**22 March 2019**

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**Entered in register  
and copied to parties**

**27 March 2019**

*I confirm that this is my judgment in the case of Ms Z Knapper v Innseagan House  
Hotel 4123128/2018 and that I have signed the judgment by electronic signature.*