



EMPLOYMENT TRIBUNALS

Claimant: Mr H Norwood
Respondent: Ashfield Effluent Services Limited
Heard at: Nottingham
On: Thursday 15 April 2021
Before: Employment Judge (sitting alone)

JUDGMENT

The Employment Tribunal Judge gave judgment as follows:

1. The Claimant's claims of unfair dismissal, disability discrimination and breach of contract are struck out.

REASONS

Introduction

1. The Claimant submitted his claim to the Tribunal on 5 October 2020 after a period of early conciliation.

2. A Preliminary Hearing by telephone was listed for 22 December 2020 before my colleague, Employment Judge Britton. Mr Grant Egan of 7th Letter Services was named as the representative of the Claimant. He did not attend the telephone Preliminary Hearing and did not respond to a telephone message from the Tribunal staff asking him to dial in. As a consequence, Employment Judge Britton made an order that if a satisfactory explanation was not received from Mr Egan for his non-attendance by Thursday 7 January 2021, the Claimant's claims would be struck out.

3. Mr Egan's response on 6 January 2021 was that he was "awaiting a phone call that never came". This is despite the fact that the notice of hearing clearly gives instructions for dialling into the hearing. Nevertheless, Employment Judge Britton accepted the explanation and wrote to Mr Egan making it clear it was for him to dial into the hearing and not for the Tribunal to contact him. In response, Mr Egan, in an e-mail of 11 January 2021, in which he changed his explanation saying "this situation has raised in my previous dealings with Preliminary Hearings, when attempting to call in I was meet (sic) with a monotone and consistent sound, I assume there was an issue of some sort with the line. I still have this in my call records. However, in previous hearings when I have not been able to get through, I have received a call. This did not happen".

4. Employment Judge Britton having accepted this explanation, a further telephone Preliminary Hearing was arranged for 25 February 2021 before me. Once more, however, Mr Egan did not attend. Accordingly, I made an unless order indicating that the claims would be struck out unless Mr Egan provided a reasonable explanation for his non-attendance by Thursday 4 March 2021 **AND** the Claimant provided further and better particulars of his claim as requested in the Respondent's response by 11 March 2021.

5. On 4 March 2021, Mr Egan e-mailed the Tribunal apologising for his non-attendance explaining that he had put the hearing in his diary for 25 March 2021 rather than 25 February 2021 and this was a clerical error "that I can assure you won't occur in future".

6. I do not accept Mr Egan's explanation. I am aware that he represents three different Claimants in three different claims made against this Respondent. Preliminary Hearings by telephone have been listed in respect of all of them and Mr Egan has failed to attend any of them, including a claim which was listed for a telephone Preliminary Hearing very recently and which again he failed to attend notwithstanding his assurance to the Tribunal that he would attend.

7. Whilst I can accept clerical errors and telephone communication problems in isolation, there is in this case and the others to which I have referred, a pattern of conducting this and the other claims which is unacceptable. Mr Egan's conduct is discourteous to the Tribunal and a failure to actively pursue the claims of those he represents.

8. Even if I had accepted Mr Egan's explanation, he has, in any event, failed to comply with the second part of the unless order made by me in that he has not given the further and better particulars I ordered to be given.

9. The Respondent has been put to inconvenience and expense. Judicial time has been wasted. The Respondent has not unreasonably made an application for a wasted costs order against Mr Egan. I do not make a costs order on this occasion because a further hearing would be necessary to hear any representations Mr Egan wishes to make. Further, on his past performance, and bearing in mind his conduct thus far, I have no confidence that he would attend in any capacity which would mean further expense to the Respondent and more waste of judicial time.

Employment Judge Butler

Date 22 April 2021

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE

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