



EMPLOYMENT TRIBUNALS

Claimant: Ms Yulianova Ivanova

Respondents: Baresta UK Ltd, Nucrema Crepes and Coffee and Sofiya Tasheva

Heard at: Watford via CVP

On: 12 March 2021

Before: Employment Judge Bartlett

Appearances

For the Claimant: none

For the Respondents: Ms Attrup

JUDGMENT

The claim is struck out in its entirety.

REASONS

Background

1. By a letter dated **18 October 2020** the Tribunal gave the claimant notice that a preliminary hearing was scheduled for 12 March 2021 to consider whether or not to make strike out or deposit orders in respect of the whole or part of the claimant's claim. This letter was sent to the claimant via email. The claimant was sent further correspondence about the hearing from the tribunal on 8 March 2021.
2. In a letter dated 5 March 2021 the solicitors for the respondents made an application for strike out of the claim or a deposit order under rule 37 on the basis that it had no reasonable prospects of success.

3. The tribunal has not received any correspondence from the claimant subsequent to a letter dated 8 October 2020 when the representatives, Lloyd Donnelly Solicitors, stated that they were no longer acting for the claimant and giving the claimant's email address for further correspondence.

The Hearing

4. The preliminary hearing started at 14:20. This was a delay of 20 minutes to the scheduled start time of 14:00 because my morning hearing had overrun substantially. The claimant had not attended the hearing by this time and neither the respondent nor the tribunal had received any communication from her in relation to her non-attendance.
5. I decided to commence the hearing at that time because I considered that the claimant had had the time to join the hearing due to its late start.

Decision

6. At the hearing Ms Attrup made an application for strike out under rule 37 on the basis that the claim had not been actively pursued by the claimant. The reasons for the application were as follows:
 - a. the respondent had not had any communication from the claimant since her representative came off the record on 8 October 2020;
 - b. the respondent emailed the claimant on 24 February 2021;
 - c. the respondent emailed the claimant on 3 and 5 March 2021. The latter included a copy of the respondent's application for strike out;
 - d. Ms Attrup had requested delivery and read receipts of her emails. She had received delivery but not read receipts;
 - e. on 3 March 2021 the respondent contacted ACAS in an attempt to contact the claimant and received no response.
7. I decided to strike out the claimant's claim in its entirety under rule 37 on the basis that it has not been actively pursued for the following reasons:
 - a. the claimant has been on notice since 18 October 2020 of the preliminary hearing and that it would consider strike out and deposit issues;
 - b. the claimant has not submitted any response to the tribunal's correspondence or the respondent's correspondence and application;
 - c. I have no record of the claimant making any contact with the tribunal in relation to this hearing;
 - d. the respondent has attempted to contact the claimant on at least three occasions via the address she was given by the claimant's

former representative. The respondent has received no communications from the claimant;

- e. the respondent attempted to contact the claimant via ACAS again without success;
- f. the tribunal has not had any communication from the claimant or her representative for a period of in excess of five months;
- g. the claimant was on notice that the serious issues of strike out and deposit orders would be considered at today's hearing and despite that she has made no representations and has not attended the hearing or offered any reason for non-attendance. I consider that the claimant has had fair warning that her claim was at risk of strike out and when this is combined with her total lack of communication for a period of five months, I consider that the claim has not been actively pursued.

Employment Judge Bartlett
Date 12 March 2021

JUDGMENT SENT TO THE PARTIES ON
25 March 2021

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FOR THE TRIBUNAL OFFICE