



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss S Ziemkiewicz

**Respondent:** Doma Catering Limited

**Heard at:** Mold (in person)

**On:** 5 August 2022

**Before:** Employment Judge McDonald  
(sitting alone)

## REPRESENTATION:

**Claimant:** Not present or represented

**Respondent:** Not present or represented

# JUDGMENT

The claimant's claim that the respondent made unlawful deductions from her wages by failing to pay her 125 hours of wages and accrued holiday pay is dismissed under Rule 47 of the Employment Tribunal Rules of Procedure 2013 by reason of her non-attendance at the hearing.

# REASONS

1. The claimant lodged an Employment Tribunal claim on 10 December 2021. She was employed by the respondent as a kitchen porter from 21 May 2021 until she resigned on 29 October 2021. In her claim form she said she was owed 125 hours' wages and accrued holiday pay. She said she had not taken any holiday days during her employment with the respondent. She also said she had not been provided with a P45.
2. The respondent defended the claim. It denied any money was owing and alleged the claimant had falsified her time sheets. It said she had left without giving notice.
3. By a notice of hearing dated 16 May 2022 the parties were notified that the final hearing of the claim would take place today, 5 August 2022, at 10.00 a.m. at the Law Courts in Mold.

4. Neither party had attended the hearing by 10.20am. The Tribunal attempted to contact the claimant by telephone but her phone went straight to a “busy” tone which meant it was not possible to leave a message. The respondent’s phone went straight to answer phone. A message was left.

5. I adjourned the hearing until 10.40 a.m. No communication was received from either party by 10.50 a.m. when the hearing resumed.

6. Rule 47 of the Employment Tribunals Rules of Procedure 2013 permits a Tribunal to dismiss a claim or proceed with a hearing in the absence of a party if a party fails to attend or be represented at a hearing. Before doing so, the Tribunal is required to consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party’s absence.

7. The Tribunal had no information about the reason for the parties’ non-attendance. I therefore considered whether it was in the interests of justice to dismiss the claim.

8. From the case papers before me, the last contact from the claimant appeared to be on 10 May 2022 when she sent the Tribunal a document setting out the moneys she was claiming. Neither party had responded to the Tribunal’s directions ordering them to prepare a bundle of relevant documents and witness statements for this hearing. Neither party had responded to emails from the Tribunal chasing for the bundle and witness statements when they were not received as directed. Neither party had responded to the emailed directions from Employment Judge Brace at 10.50 a.m. on 4 August 2022 (i.e. yesterday) indicating that the parties would be expected to explain their previous failures to respond at the hearing today. That email confirmed the date, time and venue of this hearing.

9. I am satisfied that the parties had notice of this hearing. There is no explanation for either party’s non-attendance. The claim for wages and holiday pay made by the claimant is disputed. The onus is on her to attend to pursue her case and to give evidence to prove she is entitled to the moneys she is claiming. She has not done so or explained her non-attendance. In the circumstances the claimant’s claim is dismissed under rule 47 for non-attendance at this hearing.

10. It is open to the claimant to apply for reconsideration of this Judgment within 14 days of the date the Judgment is sent to the parties. If she does so she will have to explain why it is necessary in the interests of justice for the Judgment to be reconsidered.

Employment Judge McDonald

Date 5 August 2022

JUDGMENT AND REASONS  
SENT TO THE PARTIES ON 16 August 2022

FOR THE TRIBUNAL OFFICE Mr N Roche

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