



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case Number: 4113755/2021

Mr R Aksamit

**Claimant
In person**

Dundee Cold Stores Limited

**Respondent
Represented by:
Ms G Watson
Solicitor**

JUDGMENT

Under Rule 37(1) and in light of the claimant's failure to respond to the letter sent to him on 28 June 2022 by email and post within the time stipulated, the Tribunal strikes out the claim for the claimant's non-compliance with an order under sub-paragraph (c), and as the claim has not actively been pursued under sub-paragraph (d).

REASONS

- 1. This case has had a lengthy history. The respondent sought a strike out of the claim, which at that stage was refused.**
- 2. The Tribunal later sent the claimant an email on 20 June 2022 stating that a Notice of Preliminary Hearing was being sent subject to the order that the claimant acknowledge receipt and confirm that he will attend the hearing.**
- 3. The Notice was sent to the claimant by email and post on 20 June 2022. It is understood from him that at present he has no fixed place of abode, but the last address he gave was used, and he had emailed the Tribunal previously.**

4. No response from him was received within the said 7 days.
5. The Tribunal sent him a further email on 28 June 2022 stating that it was considering striking out the claim under Rule 37 on each of the grounds that he had not complied with an order and was not actively pursuing the claim. It stated that if he wished to make any argument that the Tribunal should not strike out the claim he must provide an email with his arguments for doing so with a copy to the respondent by 12 noon on 3 July 2022.
6. The claimant did not respond. The clerk left the matter for two working days lest any communication was received, but it was not. The matter was then referred to the Judge.
7. The claimant did not comply with the order to respond set out above. The Judge considers that a case management order under Rule 29. Separately the claimant by not responding to these messages to him is not actively pursuing the claim, in the opinion of the Judge.
8. The Judge considers that it is in accordance with the overriding objective to strike out the claim. The matter has been addressed previously, and the present issues arise against that background. The claimant has been given substantial latitude to date, but the Judge considers that the point has been reached where it is proportionate to strike out the claim on each of these two separate grounds. Not to do so would cause material prejudice to the respondent. In all the circumstances, the claim is struck out under Rule 27 of the Tribunal's Rules of Procedure, in Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

Employment Judge:
Date of Judgment:
Date sent to parties:

A Kemp
06 July 2022
06 July 2022