



# EMPLOYMENT TRIBUNALS

**Claimant**

Miss Paige Elizabeth Hayes

v

**Respondent**

ICare Solutions Stockport Limited

**Heard at:** Manchester hearing Centre

**On:** 4 April 2024

**Before:** Employment Judge Tobin, sitting alone

**Appearances:**

**For the claimant:** Not present or represented

**For the respondent:** Mr S Adam (manager)

## JUDGMENT

**The claimant's claim is dismissed, pursuant to rule 47 of the Employment Tribunals Rules of Procedure 2013.**

## REASONS

- 1 This has been the second remote hearing for which there has been no objection received from the parties. The form of remote hearing was by video hearing through HM Courts & Tribunal Service Cloud Video Platform (CVP). A face-to-face hearing was not held because the relevant matters could be determined in a remote hearing.
- 2 The Claim Form was issued on 20 July 2024. The claimant claimed an unauthorised deduction of wages, pursuant to s13 Employment Rights Act 1996, and/or breach of contract in respect of her wages and travel expenses. The Response denied any liability because it said the claimant left work/employment midway through a shift and it also contended that it could withhold money from the claimant because the claimant had signed a letter authorising such retention, which, it said, applied to these circumstances.

- 3 The case came before Employment Judge Leach on 5 October 2023, it was not ready for final determination, so he made case management orders and rescheduled the hearing. A separate notice of hearing was sent on 12 October 2023, the respondent's representative informed the Tribunal that it had made some payments to the claimant but on 2 November 2023 the Tribunal informed the parties that the case would proceed in the absence of a clear indication from the claimant that she will withdraw her claim. The hearing was rescheduled, and a further notice of hearing was sent to the parties on 3 December 2023.
- 4 At the hearing today, the claimant did not attend. The respondent joined on the link on time. I delayed the start of hearing late whilst I checked that we had an up-to-date address for the claimant and that a notice of hearing and correct link had been sent to the claimant in accordance with the correct contact details previously given. No emails or other correspondence had been returned to the Tribunal and the Tribunal's information appeared to be correctly transcribed from the Claim Form details given. The tribunal clerk telephoned the claimant's representative (at 10:10am) to no avail.
- 5 In view of the claimant's non-attendance, I first considered whether to proceed in her absence. No request for an adjournment had been made, nor could I think of any good reason to adjourn. If I adjourned this hearing then, on the information available to me, I anticipated that we would be in exactly the same situation on any reconvened hearing. The parties were aware of the hearing today as notice had been effectively given twice with the subsequent provision of a CVP link.
- 6 The respondent attended and I am satisfied, that both parties were aware, or should be aware, of the importance of attending this hearing. If I did not proceed today, there could be no resolution. Accordingly, I decided that it was appropriate and within the overriding objective of rule 2 of the Employment Tribunal's Rules to proceed in the absence of the claimant.
- 7 In the circumstances, rule 47 of the Employment Tribunals Rules of Procedure 2013 applied. That provides:

"If a party fails to attend or to be represented at the hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it shall consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence."
- 8 The claimant was discourteous in her treatment of the Tribunal. Unfortunately, such discourtesy is something Employment Judges are growing accustomed to in undertaking our role. The apparent discourtesy of not turning up for her hearing and, seemingly, not bothering to inform the Tribunal of her likely non-attendance is not a factor I took into account. The key factor is that Employment Tribunals are under enormous pressure with the volume of claims, and, like other sectors of the public service, we need to deliver much more for

less resources. The parties have a right to a fair hearing, but they do not have a right to ongoing indulgence. Cases are waiting for hearing for up to 2-years or longer. This hearing was scheduled for ½-day today, and that slot cannot be reallocated to another case to fill the gap. This cannot be an acceptable use of scant public resources without a clear resolution.

- 9 I considered whether dismissing this claim would be disproportionate in the circumstance. It seems clear that the claimant had some money, and it appears that she has taken a decision not to pursue the remainder of her claim. She had her opportunity to pursue this matter today and she did not take that opportunity. In the circumstances, it is appropriate to dismiss the claimant's claims.

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Employment Judge Tobin

Dated: 4 April 2024

JUDGMENT SENT TO THE PARTIES ON

Dated: 17 April 2024

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FOR THE TRIBUNAL OFFICE

**Notes**

**Public access to Employment Tribunal decisions**

All judgments and Written Reasons for the Judgments (if given) are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

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