



EMPLOYMENT TRIBUNALS

Claimant: Mr Mohammed Awais Rashad

Respondent: North West Logistics Limited

Heard at: Manchester Employment Tribunals

On: 22 March 2024

Before: Employment Judge Tobin (sitting alone)

Appearances

For the claimant: Did not attend/participate

For the respondent: Ms H Lunney (solicitor)

JUDGMENT

The claimant's claims are struck out pursuant to Rule 47 of The Employment Tribunals Rules of Procedure, Schedule 1 Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013.

REASONS

Proceeding without the claimant

1. The claimant did not attend the hearing. I am satisfied that he was sent a notice of hearing.
2. The claimant did not attend the last hearing, nor did he comply with the order of Employment Judge Childe to provide telephone contact. The claimant did not provide his telephone number on his completed Claim Form and as he had not responded to Judge Childe's order, we could not telephone him to ascertain his intentions (or whereabouts). The claimant had not requested that this hearing be adjourned. I could see no reason why this hearing should not proceed because if I were to adjourn the hearing then we would likely face the claimant's non-attendance in any future hearing. I determined that the claimant had voluntarily absented himself from this hearing. I determined that it was within the overriding

objective of rule 2 of the Employment Tribunal Rules of Procedure to press on with this case and proceed without the claimant's attendance.

Striking out the claimant's claim

3. The hearing set for 24 January 2024 and today were scheduled to be case management hearings. The purpose of the hearings were to review the claims and the defence and to set out the preparation required to bring this case to a final hearing. I note the case was listed for hearing, between 26 to 28 March 2025 (3 days).
4. The claimant claimed unfair dismissal and race discrimination. His details of complain was scant. The claimant said that he was employed as a driver but he did not provide his dates of employment. He complained of bullying from 2 unnamed colleagues. No further details were proffered. The Response was more expansive, the respondent denied unfair dismissal and race discrimination. The respondent gave dates of the claimant's employment and contended that the claimant has not accrued 2-years continuous employment, so he did not have the statutory right to claim unfair dismissal. So far as race discrimination was concerned, the respondent contended the claimant smoked cannabis in his company vehicle and this was reported by 2 driver colleagues. The claimant thereupon vandalised 2 company vehicles and he was dismissed for this following a disciplinary process. From my reading of the claim and the response, my preliminary view is that both claims appear to be weak and/or unmeritorious and I have taken this into account in my assessment.
5. The claimant has not confirmed that he is actively pursuing these proceedings, which is also a breach of Judge Childe's order on 24 January 2024. So had I not struck out the case out under rule 47, I would have struck this claim out under rule 37(1)(c) and rule 37(1)(d).
6. I also consider that a fair hearing is not possible where a party repeatedly fails to attend scheduled hearings and does not comply with the orders of the Employment Tribunal, so I add rule 37(1)(e) to the strike out list.
7. The Employment Tribunal faces an unprecedented high volume of claims with limited resources. We cannot indulge seemingly unmeritorious claims from recalcitrant parties; so, the decision to strike out these proceedings is within the overriding objective.
8. The case stands struck out primarily for the claimant's repeated non-attendance at hearings but also because he has not complied with an important order of the Tribunal, because the case is not actively pursued and because a fair hearing is no longer possible.

Employment Judge Tobin
Date: 22 March 2024

JUDGMENT SENT TO THE PARTIES ON
2 April 2024

FOR THE TRIBUNAL OFFICE

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