



EMPLOYMENT TRIBUNALS

Claimant

Mr P Deacon

Respondent

Engenda Group Ltd

Heard at: Leeds

On: 1 December 2017

Before: Employment Judge Davies

Appearances

For the Claimant:

Did not attend

For the Respondent:

Mr B Ahmed (solicitor)

JUDGMENT

1. The claim is dismissed pursuant to Rule 47 of the Employment Tribunal Rules of Procedure 2013, the Claimant having failed to attend.

REASONS

1. This was a preliminary hearing to determine an application for the claim to be struck out made by the Respondent. The Claimant did not attend and the Respondent was represented by Mr Ahmed.
2. This claim has an unusual and troubling history, in that the Claimant presented his claim of unfair dismissal online in accordance with the required practice on 13 January 2016. The claim should have been forwarded by the central processing department at Leicester to Leeds Employment Tribunal but that was not done. Leeds Employment Tribunal were wholly unaware of the claim and, it follows, the claim was not served on the Respondent.
3. It is my understanding that the judgment of the Supreme Court on 26 July 2017 that the Employment Tribunal fees scheme was unlawful led to some sort of audit taking place at Leicester, as a result of which this claim was discovered. The only explanation on the Tribunal's file is that the claim had been overlooked as a result of "human error." When the claim was received at Leeds Employment Tribunal it was served on the Respondent on 20 September 2017 and standard case management orders were made. The Respondent presented its ET3 response and made an application for the claim to be struck out on the basis that a fair trial was no longer possible.
4. I note at this stage that there is also at least a question about whether the claim was originally presented in time at all. The claim form says that the Claimant was dismissed in May 2015 and the ET1 was presented on 13 January 2016. No information about early conciliation is now available but the Tribunal would at

least need an explanation of how it is said that the claim was presented within the statutory time limit for bringing unfair dismissal claims.

5. Be that as it may, the claim was listed for a preliminary hearing and case management orders were made for the exchange of evidence and witness statements. Mr Ahmed tells me that the Respondent sent a list of documents to the Claimant at the email address given in his claim form in accordance with the original standard case management orders. It did not receive any response from him. It has also attempted to contact him via ACAS and ACAS have been unable to contact him either. A number of items of correspondence have been sent to the Claimant by the Tribunal to the email address given in the claim form. The Tribunal has not heard anything from the Claimant about this claim at all.
6. Against that background, the Claimant has not attended this morning's hearing. There is no telephone number given on the claim form so it has not been possible to attempt to contact him by phone and as indicated he has not responded to emails sent to him at the email address given in the claim form.
7. There would obviously have been issues to decide about whether the claim had been actively pursued and, in any event, whether a fair trial remained possible. There was also a question about whether the claim was presented in time at all. In view of those matters, the Claimant's non-attendance this morning and the total lack of any contact from the Claimant since this claim was discovered and served in September, I take the view that it is appropriate and in accordance with the overriding objective to dismiss this claim under Rule 47.

Employment Judge Davies

Dated: 1 December 2017