



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant: Mr G Bojarski and **Respondent:** Andrzej Igielski t/a Andrews Garden Services

HELD AT Birmingham **ON** 26 November 2021

EMPLOYMENT JUDGE Choudry

Representation:

For the claimant: No appearance

For the respondent: In person

JUDGMENT

The claimant's claims for holiday pay, notice pay, arrears of pay and other payments are dismissed.

REASONS

1. By a claim form received on 8 June 2020 the claimant brought claims for unfair dismissal, holiday pay, notice pay, arrears of pay and other payments.
2. By a Judgment dated 18 November 2021 the claimant's claim for unfair dismissal was struck out as the claimant was employed for less than two years.
3. By a letter dated 19 June 2021 the parties were provided with a Notice of Hearing with notification that the hearing of the claimant's claims would take place at 10am on 26 November 2021 by video. At the same time the parties were also issued with case management orders requiring the parties to exchange documents, agree a bundle and to exchange witness statements.
4. The parties were reminded of the hearing date by a letter dated 18 November 2021. The parties were asked to confirm that the case was ready for hearing and the claimant was to confirm whether he required an interpreter. The

Tribunal's letter of 18 November 2021 was sent to both parties by post as the claimant had not provided an email address. No response was received from the parties.

5. The claimant did not attend at 10am although the respondent did. The clerk telephoned the claimant 3-4 times on two different telephone numbers that the claimant had provided and left a message for the claimant to make urgent contact. By 11am no contact had been received by Tribunal from the claimant.
6. I am satisfied that the claimant had adequate notice of the hearing. No reasons were given for his non-attendance and all practicable enquiries had been taken to identify the reasons for his non-attendance.
7. Neither party produced any documents in support of the claim or the defence. No witness statements were served and the claimant's contract was not before the Tribunal. Furthermore, the respondent asserted that the claimant was engaged on a self-employed basis and not as an employee/worker placing the burden on the claimant to satisfy the Tribunal of his employment status. On that basis, I did not feel able to proceed to hear the claim substantively in the claimant's absence.
8. The claimant having still failed to attend more than an hour after the hearing was due to start, I proceeded to dismiss the claim under rule 47 of the Employment Tribunals (Constitution and Rules of Procedure Regulations) 2013.

Employment Judge Choudry
26 November 2021