

JERSEY / JUDGMENT

Antonio Albuquerque v Barqueiro Restaurant Limited

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IN THE JERSEY EMPLOYMENT AND DISCRIMINATION TRIBUNAL BETWEEN ANTONIO
ALBUQUERQUE CLAIMANT AND BARQUEIRO RESTAURANT LIMITED RESPONDENT

JUDGMENT

Reference: [2023] TRE 85 Hearing date: 29 November 2023 Before: Dr E Moran Appearance: For the Claimant: Sandra Dickinson For the Respondent: Samuel Pinto

JUDGMENT

The claims and counterclaim are struck-out for non-compliance with Tribunal orders.

REASONS

1. The Claimant submitted a Claim Form on 1 May 2023 claiming unfair dismissal, notice pay and unpaid wages. The claim of unfair dismissal was rejected because the Claimant did not have one year's service as required by article 73(1) of the Employment (Jersey) Law 2003. 2. The Respondent filed a Response Form on 30 May 2023 alleging that the Claimant resigned without notice. The Respondent brought a counterclaim for monies lost because of the Claimant leaving without notice. 3. There was a Case Management Hearing on 25 September 2023. The Claimant did not attend but was represented by Ms Dickinson. Orders were made to take the case up to a final hearing including orders for the provision of further information by both parties by 16 October 2023, disclosure by 30 October 2023, exchange of witness statements by 13 November 2023 and the Claimant to file bundles with the Tribunal by 22 November 2023. 4. No bundles were filed with the Tribunal by 22 November 2023. On 28 November 2023 Ms Dickinson attended the Tribunal with some pieces of paper and was asked to go away and prepare proper bundles. 5. No bundles had been filed by the Claimant at the start of the hearing at 10 am on 29 November
2023. Samuel Pinto attended the hearing on behalf of the Respondent. Ms Dickinson attended on behalf of the Claimant. A Portuguese translator attended via video. The Claimant was abroad. Despite being sent a link by email the previous day the Claimant did not attend the hearing via video. Ms Dickinson said the Claimant was on the phone in his car and was struggling to access the link. 6. It transpired that neither side had complied with any of the orders: - (i) No further information had been provided by either side. Ms Dickinson said

that the Claimant had tried to send an email to Mr Pinto with the information, but Mr Pinto had blocked the email. Mr Pinto denied this. (j) No disclosure had taken place. (k) No witness statements had been exchanged. (l) Ms Dickinson had some paperwork with her but no bundles. 7. Article 25 of the Employment and Discrimination Tribunal (Procedure) (Jersey) Order 2016 states that the Tribunal can on its own initiative strike-out all or part of a claim for non-compliance with Tribunal orders. 8. There has been a flagrant flouting of the Tribunal orders by both sides and neither side considered it necessary to appraise the Tribunal of the breaches or to apply for an adjournment with the result that the time of the Tribunal and the interpreter have been wasted. In the circumstances I consider it appropriate to strike-out both the Claimant's claims and the Respondent's counterclaim. Dr E Moran, Chairman 1 December 2023

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