

[5] At the appointed time the applicant failed to appear at the investigation meeting. Mr Leonard's mother had earlier in the day contacted the Authority and advised that Mr Leonard had the days confused and thought the investigation meeting was for the Monday.

[6] I am satisfied that clear formal advice of the investigation meeting was sent to both parties and I am satisfied that both parties received accurate and timely information of the details of the investigation meeting and of the possible consequences should either party not attend.

[7] The Authority, having delayed the investigation meeting by 20 minutes met with Mr Burke who made an oral application to have the claims dismissed.

Determination

[8] I order that the application by Mr Leonard be dismissed. I can be of no further assistance to him.

Identity of the employer

[9] For completeness I have made some comments in relation to the dispute as to who Mr Leonard's employer was.

[10] Mr Burke says he was not Mr Leonard's employer. There was a written employment agreement which was signed by both parties setting out the name of the employer as being JHB Trust. The original of this document was provided by Mr Leonard. Further, Mr Leonard resigned from his employment on 16 March 2007 in writing. That resignation states that he is resigning from his employment from JHB Trust. I am satisfied Mr Leonard was well aware of who his employer was and that it was not Mr Burke personally.

[11] Even had Mr Leonard turned up to the investigation meeting, it is more likely than not that I would have found JHB Trust to be a separate legal entity from Mr Burke and that Mr Burke was not his employer. Therefore his claim would have failed in any event.

Costs

[12] Mr Burke was not legally represented, therefore costs will lie where they fall.

Vicki Campbell
Member of Employment Relations Authority