

mf

# EMPLOYMENT TRIBUNALS

**Claimant:** Miss A M Duarte

**Respondent:** Essex County Laundry Ltd t/a Royal Jersey Laundry

**Heard at:** East London Hearing Centre **On:** 20 July 2017

**Before:** Employment Judge Elgot (sitting alone)

## Representation

**Claimant:** Mr O Tahzib (Counsel)

**Respondent:** Mr B Quinn (Operations Manager)

**JUDGMENT** having been sent to the parties on 24 July 2017 and reasons having been requested in accordance with Rule 62(3) of the Rules of Procedure 2013.

## REASONS

The Respondent, having failed in its application to have the Default Judgment of 25 May 2017 (corrected on 19 June 2017) set aside, now requests reasons for the judgment of 20 July 2017 which are as follows:-

1 The Claimant lodged a claim for unfair dismissal, sex discrimination, holiday pay and deficiency of wages. The claim was sent to the Respondent on 10 April 2017 with notification from the Tribunal that a Response to the claim must be received on or before 8 May 2017.

2 I am satisfied that the claim and the accompanying tribunal correspondence was sent to 'Royal Jersey Laundry Ltd' at Westcott House, Selinas Lane, Chadwell Heath, Dagenham, Essex RM8 1QH. Mr Quinn confirmed on oath, in his capacity as witness as well as representative, that this is the correct address and postcode for the Respondent. The claim and the tribunal correspondence are, self-evidently to any recipient, important and official documents in connection with judicial proceedings.

3 Apart from the fact that Royal Jersey Laundry is a trading name and not a limited company in its own right I am satisfied that the claim was sent to and arrived at the Respondent's premises. Mr Quinn confirmed that the Respondent employs over 150 people; it is a medium sized business with a dedicated office and administration staff and efficient mail sorting and distribution procedures.

4 No later than 31 May 2017, as appears from an email of that date addressed to the Tribunal by James Lincoln, the Respondent's Managing Director, the Respondent had received "*initial paperwork with a scheduled date of hearing of 12/06/2017*".

5 The notification that 12 June 2017 was the date set for a Preliminary Hearing came from the Tribunal itself, sent to the Respondent at the correct address, on 10 April 2017. The Respondent therefore clearly received this notification on or before 31 May 2017 but has failed to act upon receipt of these documents.

6 By 25 May 2017, no Response having been received, Default Judgment was entered and the 12 June 2017 hearing was postponed.

7 I am satisfied that the Respondent received 'initial paperwork' in April but took no action to lodge an ET3 Response for whatever reason.

8 The Respondent did however react to a telephone call it received from the director of a company named "Thoughtful Services Ltd" in Croydon to whom the Default Judgment was incorrectly sent. I am satisfied that the Respondent itself also received the Default Judgment on or around 28 May 2017.

9 At the prompting of Mr Sinclair from Thoughtful Services Ltd Mr Lincoln did contact the Tribunal confirming that '*Thoughtful Services has nothing to do with Royal Jersey*' and asking for the '*original judgment [to be] set aside*'.

10 It was not until 15 June 2017 (the last day on which it was in time) that the Respondent finally wrote to the Tribunal setting out its grounds to have the Default Judgment set aside or sending its draft ET3 Response. Mr Lincoln refers in his 15 June 2017 email to the Tribunal to his solicitors (DWF) but they are not on the record and have not contacted the Tribunal. The ET3 which he attached to that email contains no Grounds of Resistance nor does it give any basis on which the Respondent seeks to defend all or any of Miss Duarte's claims. It does not offer any detailed grounds upon which the Default Judgment should be set aside.

11 Mr Lincoln was unable to attend the 20 July 2017 hearing because he had an '*important business meeting*'. Mr Quinn, who did attend on behalf of the Respondent, whilst attempting to be helpful to the Tribunal, had no knowledge and indeed could not comment on whether the claim and subsequent correspondence had been received, save to confirm 'all mail is opened by office staff and goes in allocated trays'. In other words the Respondent has not proffered any witness evidence, written or oral, which would support the application to set aside the Default Judgment. In all the circumstances of this case there are, in my determination, no grounds to review, revise or set aside the Default Judgment.

12 The Respondent's further application to postpone the 20 July 2017 hearing was refused; the Respondent has had since at least 31 May 2017 to obtain legal advice and representation. It made no application for postponement until Mr Quinn requested it orally at the 20 July hearing.

13 The Claimant's claims having succeeded she is awarded the amounts set out in the Judgment and there is no reason for those sums not to be paid promptly by the Respondent lest interest be incurred.

14 The Claimant's other remedy claims will be heard at an adjourned date at a further remedy hearing to be listed for one day. Any Employment Judge may conduct that hearing. I have exercised my discretion under Rule 21(3) of the 2013 Regulations to permit the Respondent to participate in the adjourned remedy hearing and/or any application by the Claimant for costs.

Employment Judge Elgot

7 September 2017