



EMPLOYMENT TRIBUNALS

Claimant

Ms D. Salakana

Respondent

(1) Glamrockz Ltd.
(2) Tots to Teens Shoe Lounge Ltd

v

Heard at: Watford

On: 22 November 2017

Before: Employment Judge Heal

Appearances

For the Claimant: Mr. Nkafu (counsel)

For the Respondent: not present or represented.

Judgment was sent to the parties on 7 December 2017. On 14 December 2017, both respondents requested written reasons of the judgment to join the second respondent and those reasons are now provided.

REASONS

1. By a claim form presented on 13 December 2016 the claimant made complaints of constructive unfair dismissal and unauthorised deductions from wages.
2. At a preliminary hearing on 6 April 2017 Employment Judge Smail identified the issues. A full hearing was listed for 27 July 2017.
3. On 15 June 2017 Peninsula wrote to the tribunal in connection with these proceedings saying that they had been appointed to represent 'Tots to Teens Shoe Lounge Ltd'.
4. The July hearing took place with the first respondent in attendance and represented by Mr. Maratos of Peninsula. The claimant was unrepresented. Due to delays caused by difficulties with disclosure it was not possible to complete that hearing and a further hearing was listed on 12 September 2017. That hearing was postponed because no judge was available and a further hearing was listed on 22 November 2017.
5. Meanwhile the first respondent was dissolved on 3 October 2017.

6. The first respondent did not appear and was not represented at the hearing on 22 November 2017. Mr Nkafu appeared for the claimant.
7. On 22 November 2017, the claimant made applications to amend the claim to include Tots to Teens Shoe Lounge Ltd as a second respondent as well as to add claims for 7 days holiday pay and outstanding bonuses.
8. I granted those amendments.
9. I consider that there are issues between the claimant and Tots to Teens Shoe Lounge Ltd falling within the jurisdiction of the tribunal which it is in the interests of justice to have determined in the proceedings (rule 34).
10. I take that view because the second respondent has the same registered office address as the first respondent and the directors of the first respondent have been directors of the second respondent. There appears to be a family connection between the two companies. In Companies House information, the two companies both give as the nature of their business, 'retail sale of footwear in specialised stores'. The first respondent has been dissolved without prior warning during the course of these proceedings but the second respondent continues to be active. The claimant had given evidence that Mr Wirk 'used to have a company called Glamrockz'; he opened 'Tots to Teens' as a 'concession'. She said that when Mr Wirk opened Tots to Teens he was trying to close down Glamrockz. He 'closed down' Glamrockz in July 2016. He was, she said, trying to get her to leave Glamrockz and find another job. She says that her contract ended on 28 October 2016.
11. In the event that there has been a transfer of an undertaking between the two companies then the second respondent may be liable for the employment contract liabilities of the first respondent. If the claimant is not given an opportunity to pursue that issue then she is very likely to be left without remedy for her claims. Although she has had some representation, that appears to have been something less than full representation. The situation surrounding her employment has been highly confusing, even for lawyers. The information about who is her correct employer is far more in the hands of the respondent(s) than it is in her hands. She was never issued with an employment contract and there is little correspondence between the parties. I would not expect her to have seen the significance of making a claim against both respondents.
12. I consider that if she is not permitted to amend she may lose any chance of redress given that the first respondent has been dissolved. If I do allow the amendment, the respondents remain able to defend the proceedings. Indeed, much of the evidence has already been heard. I anticipate that evidence will have to be given by Mr and Mrs Wirk, as would have taken place in July had time and good organisation allowed it.
13. For those reasons, I have permitted the claimant to join the second respondent to the proceedings.

Employment Judge Heal

Date 11/1/2018

Sent to the parties on:

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For the Tribunal Office