



THE EMPLOYMENT TRIBUNALS

Claimant
Mr J Regan

Respondent
Iain Harrison t/a Castle Carpets Karndean Centre

JUDGMENT OF THE EMPLOYMENT TRIBUNAL ON RECONSIDERATION

MADE AT NORTH SHIELDS (without a Hearing)
EMPLOYMENT JUDGE GARNON

ON 9th October 2017

JUDGMENT

1. Under the powers in rule 72(2) of the Employment Tribunal Rules of Procedure 2013, I reconsider my Judgment dated 8th September and sent to the parties on 13th September 2017 . I order the judgment be revoked and the decision be taken again at the hearing already listed for 30th November 2017.
2. I order the response filed on 25th September 2017 be accepted and the respondent by 20th October 2017 to send to the claimant's representative and the Tribunal full particulars of his response to all claims made.

REASONS

1. The respondent has applied for a reconsideration of a judgment on liability only made by me in circumstances where no response had been presented. That judgment would have been received by the respondent in the normal course of post by 15th September at latest. The first contact from the respondent was an e-mail dated 11th September with no response form. I directed the respondent to complete one and explain why one had not been filed within the prescribed time limit. A response form with no explanation for lateness was received on 25th September. Employment Judge Buchanan rejected it for that reason.
2. By an email from the respondent dated 28th September referring to a telephone conversation with one of the Tribunal clerks, the respondent , in effect but not in terms, asked for a reconsideration of the judgment and the rejection The respondent put forward one argument only to excuse its failure to respond in time being that the claim was not received. Employment Judge Buchanan sought the claimant's representative's comments and he has not objected to the reconsideration in theory.

3. Under rule 72 (2). I may grant this application without a hearing . The only ground for a reconsideration is whether one is necessary in the interests of justice. I believe it is, so I set aside the judgment and order the response to be accepted.

4. However, there is no reasoned defence to the claim of failure to pay compensation for untaken annual leave or to the claim the reason for dismissal was assertion of a statutory right. The assertion made as to the rate of pay agreed is of a figure well below the National Living Wage. It is accepted the claimant was an apprentice but the reason given for dismissal does not appear to be one which would permit the termination of an apprenticeship contract. In short, the response as it stands appears to have been hastily drafted without the respondent having taken legal advice or familiarising himself with the law. I am prepared to allow a short time for him to file a cogent response.

T M Garnon EMPLOYMENT JUDGE

SIGNED BY EMPLOYMENT JUDGE ON 9th OCTOBER 2017

SENT TO THE PARTIES ON

10 November 2017

P Blair

FOR THE TRIBUNAL