



## EMPLOYMENT TRIBUNALS

**Claimant**  
Mrs M Greaves

**Respondent**  
v James Convenience Retail Limited

### RECORD OF AN ATTENDED PRELIMINARY HEARING

**Heard at:** Nottingham

**On:** Monday 26 March 2018

**Before:** Employment Judge P Britton (sitting alone)

#### Appearances

**For the Claimant:** In Person

**For the Respondent:** Mr R Dempsey, Solicitor

## JUDGMENT

The claim will proceed against the current Respondent James Convenience Retail Limited but also added as a second Respondent is Rippleglen Limited.

Revised directions are hereinafter set out.

## CASE MANAGEMENT SUMMARY

### Introductory summary

1. The claim in this matter was presented to the Tribunal by the Claimant with the Respondent being named as James Retail. This matched the ACAS early conciliation certificate that came in. I will work on the premise that James Retail is actually James Convenience Retail Limited. However applying the well-known authority of Chard<sup>1</sup>, that would only be a minor difference, hence why the matter wasn't referred to a Judge for a jurisdictional consideration.

2. The claim is one of constructive unfair dismissal and is fully pleaded and is in time.

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<sup>1</sup> Chard v Trowbridge Office Cleaning Services Ltd UKEAT/0254/16/DM

3. In its response at the first paragraph the Respondent raised a jurisdictional point on the basis that “the identified Respondent (James Retail) differs from the Respondent identified on the ACAS early conciliation certificate, the Claimant’s employer, Rippleglen Limited.” Thus the Solicitors went on to plead that is was a substantive error and therefore the Claimant should be dismissed.

4. On that basis another Judge directed there should be this Preliminary Hearing on what is therefore a Jurisdictional point. However the Respondent’s solicitor was unaware that the ACAS certificate that had been lodged with the claim did mirror the name of the Respondent in the ET1 as it was James Retail. It seems to me that the Respondent may have at some stage got another ACAS certificate but it would have been served the one I am referring to. Having taken instructions Mr Dempsey accepts this to be the case. Accordingly the jurisdictional issue is abandoned.

5. However what I have then done as a safeguard and with the leave of the parties is to join as a second Respondent Rippleglen Limited because although James Convenience Retail Limited (James Retail) is clearly a holding company and its senior executives heard the internal grievance proceeding and appeal, there is a possible argument that Rippleglen remained the employer post its acquisition by James Retail. Mr Dempsey accepts that as the Response pleads fully the factual scenario and as Rippleglen will not be separately represented, that there is no need for it to be served the proceedings or formally respond to the same.

6. I then discussed current directions with the parties. As it is a constructive unfair dismissal claim and the Claimant is unrepresented, the case will be extended to two days of hearing. Against that background and the Claimant having already supplied her schedule of loss and witness statement, albeit Mr Dempsey has assured her in writing that it has not been read and will not be until the exchange of witness statements date, I make the following directions.

## **ORDERS**

### **Made pursuant to the Employment Tribunal Rules 2013**

1. To complete the discovery process the Respondent will provide its proposed list of documents for the trial bundle by 6 April. Incorporated therein but not so as to duplicate the document will be the Claimant’s own list.

2. The preparation by the Respondent of the trial bundle, and including therefore service of a copy on the Claimant, will now be 16 April 2018.

3. The exchange of witness statements will now be 4 May 2018. For the avoidance of doubt the Claimant having already sent hers to the Respondent, she doesn’t need to do so again.

4. The hearing of this matter currently scheduled for Nottingham on 14 May 2018 is extended to include Tuesday 15 May 2018.

## **NOTES**

- (i) The above Order has been fully explained to the parties and all compliance dates stand even if this written record of the Order is not received until after compliance dates have passed.
- (ii) Failure to comply with an order for disclosure may result on summary conviction in a fine of up to £1,000 being imposed upon a person in default under s.7(4) of the Employment Tribunals Act 1996.
- (iii) The Tribunal may also make a further order (an “unless order”) providing that unless it is complied with, the claim or, as the case may be, the response shall be struck out on the date of non-compliance without further consideration of the proceedings or the need to give notice or hold a preliminary hearing or a hearing.
- (iv) An order may be varied or revoked upon application by a person affected by the order or by a judge on his/her own initiative. Any further applications should be made on receipt of this Order or as soon as possible. The attention of the parties is drawn to the Presidential Guidance on ‘General Case Management’: <https://www.judiciary.gov.uk/wp-content/uploads/2013/08/presidential-guidance-general-case-management-20170406-3.2.pdf>
- (v) The parties are reminded of rule 92: “Where a party sends a communication to the Tribunal (except an application under rule 32) it shall send a copy to all other parties, and state that it has done so (by use of “cc” or otherwise). The Tribunal may order a departure from this rule where it considers it in the interests of justice to do so.” If, when writing to the tribunal, the parties do not comply with this rule, the tribunal may decide not to consider what they have written.

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**Employment Judge P Britton**

Date: 29 March 2018

Sent to the parties on:

03 April 2018

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For the Tribunal:

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