



EMPLOYMENT TRIBUNALS

Claimant: Miss H Sanders

Respondent: Davyhulme Nursery Limited

Heard at: Manchester

On: 26 March 2018

Before: Employment Judge Franey
(sitting alone)

REPRESENTATION:

Claimant: In person

Respondent: Mr M Cameron, Consultant

JUDGMENT

The respondent is ordered to pay the claimant the sum of £185.00 by way of a preparation time order.

REASONS

1. The application for a preparation time order was made by the claimant at a hearing in which I granted the respondent an extension of time so as to mean that its response form was accepted, and then granted its application to postpone the final hearing to another date.
2. The hearing had been listed as a final hearing by means of a notice of hearing issued on 6 December 2017, and the claimant had complied with the Case Management Orders contained in that letter by supplying a bundle of documents and her witness statement. The respondent had undertaken no preparation but applied on 23 March 2018 for an extension of time in which to present a response.
3. In relation to the application for an extension of time I heard oral evidence from Charlotte Watterson, the manager of the respondent's nursery in Davyhulme, and heard submissions from Mr Cameron for the respondent and from Miss Sanders. I found as a fact that the respondent had not been aware of the Tribunal proceedings (as distinct from early conciliation via ACAS) until 16 March 2018 when

a letter from the Tribunal to its registered office was forwarded by its former accountants.

4. After I announced my decision that the application for an extension of time would succeed, Mr Cameron applied for a postponement of the final hearing. The person who took the decision to terminate the engagement, Ms Denton, was not available and no witness statement or documents relating to the substantive complaints had been obtained. It was not possible to have a fair hearing and therefore I granted the application to adjourn. Further details are set out in the Case Management Order made after that hearing.

5. Rule 76(2) empowers a Tribunal to make a preparation time order where a hearing has been postponed on the application of a party. After I explained the rules to her the claimant sought a preparation time order.

6. Sensibly Mr Cameron did not resist the application or ask me to consider the respondent's ability to pay. However, he contested the number of hours for which the order was sought.

7. I was content that it was in accordance with the overriding objective to make such an order in this case. The response form was filed late because of the failure of the respondent to ensure that correspondence received at the nursery was safely transmitted to Head Office, and/or its failure to update its Registered Office when changing accountants. That created a need for its application to be heard today. In addition the respondent had not been ready to proceed with the final hearing in the event that its application was granted. Those factors meant that some of the time spent by the claimant preparing for this hearing will have been wasted: she will have to do some of the preparation again before the next hearing.

8. The claimant said she had spent approximately thirty hours preparing for this hearing, but it was apparent that a good deal of that was work done on the documents, which was time she would not have to spend again prior to the new hearing date. However I accepted her account that she spent approximately five hours in preparing for the final hearing and would have to do that again when the next hearing came round. Mr Cameron suggested that even this was too long for what was essentially a simple matter but I did not consider that perspective took full account of the fact that the claimant is a person representing herself unused to these types of legal proceedings.

9. I therefore awarded the claimant five hours of preparation time at the prescribed current rate of £37 per hour.

Employment Judge Franey

26 March 2018

JUDGMENT AND REASONS

SENT TO THE PARTIES ON

19 April 2018
FOR THE TRIBUNAL OFFICE

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