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EMPLOYMENT TRIBUNALS

Claimant: Mr S Allsopp
Respondent: B Rogers Plumbing & Heating Limited
Heard at: East London Hearing Centre
On: 30 October 2018
Before: Employment Judge M Warren

Representation

Claimant: Mr J Allsopp (Claimant's Father)
Respondent: Did not attend

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The Respondent's application for an extension of the time for filing a Response ET3, for reconsideration of my Judgment dated 21 August 2018 and/or the Judgment to be set aside pursuant to Rule 20(4) is refused.

REASONS

1 The claim was issued on 7 June 2018. Mr Allsopp claimed unpaid wages, unauthorised deduction from his wages and accrued unpaid holiday pay to the date of termination of his employment with the Respondent, on 16 May 2018.

2 The Tribunal's file shows that the claim form was served upon the Respondent by a letter dated 21 June 2018, together with notice that the matter was listed for hearing on 31 August 2018 and explanations that the response was due by 19 July 2018. The letter of service explains that the response may be filed by delivery to the Tribunal office or online, giving a website address.

3 No response was ever received from the Respondent.

4 On 27 July 2018, the Tribunal wrote to Mr Allsopp requesting additional information with regard to the quantum of his claim, explaining that he was entitled to judgment as no response had been received. That letter was copied to the Respondent.

5 I signed a Judgment in favour of the Claimant on 21 August 2018, having received further information from him.

6 On 23 August 2018, the Tribunal received an email from Peninsula. This simply informed the Tribunal that it had been instructed by the Respondent, nothing more.

7 My Judgment was sent to the parties by the Tribunal on 24 August 2018.

8 In an email dated 28 August 2018, Peninsula wrote to the Tribunal to request that the hearing on 31 August be postponed, (it had already been vacated). In a separate email of 28 August, Peninsula applied for an extension of time for presenting a response, for my judgment to be set aside pursuant to Rule 20(4) or in alternative, that it be reconsidered. In these two emails, Peninsula state that the Respondent had mistakenly sent its response to ACAS. Attached to the email was a copy of the handwritten response form.

9 The matter comes before me today. The Respondent has not attended. The Tribunal staff telephoned Peninsula, who informed the Tribunal clerk that they were not attending today because they had received an email from the Claimant dated 17 October, saying that the case had been placed on hold. There is an email from the Claimant's father to the Tribunal copied to Peninsula dated 17 October. This explains that the Sheriff has already enforced the Judgment and is holding the money due. It does not say that the case is, "on hold".

10 There is no evidence before me that the response was sent to ACAS by mistake.

11 The response copied to the Tribunal by Peninsula does not state at 6.1 that the Respondent intends to defend the claim. Further, at 6.1 no facts are provided as the basis upon which the claim is defended.

12 At 7.2 the Respondent appears to indicate that it intends to bring an employer's contract claim, but the narrative at 7.3 refers to matters coming to light after Mr Allsopp's employment had come to an end. The Tribunal only has jurisdiction to deal with breach of contract claims brought by employers if the employee has brought a breach of contract claim, (he has not) and if the claim is outstanding or arises on the termination of employment, (the purported claim does not).

13 In the circumstances, I conclude that the response was not filed in time, that any such response the Respondent may have purported to submit, did not contain valid grounds of resistance in any event. Mr Allsopp was entitled to the benefit of his Judgment. The application for it to be reconsidered or set aside is therefore refused.

Employment Judge M Warren

1 November 2018

