

**EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: S/4100700/2017**

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**Held in Glasgow on 17 January 2018**

**Employment Judge: Iain F Atack**

10 **Mrs Malgorzata Ornowska**

**Claimant  
In Person**

15 **Bryant Park Hospitality UK Ltd**

**Respondent  
Represented by:  
Ms L Shaw –  
Solicitor**

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**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

25 The Judgment of the Employment Tribunal is that the Preliminary Hearing listed for  
17 January 2018 be postponed until Thursday 1 March 2018 at 10am.

**REASONS**

1. This case had been listed for a Preliminary Hearing to determine the following  
issues:-

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- (1) To consider the claimant's application for leave to amend and
  - (2) The respondent's application for strike out of the claim.

2. The claimant appeared in person and the respondent was represented by Ms Shaw. The claimant was assisted by Ms M Moore a Polish interpreter.
3. The claimant requested through Ms Moore that the Hearing be postponed because her lawyer had resigned and she was not in a position today to proceed to present the case by herself. She stated she needed time to prepare and to consider the documents which were in English and with which she was unfamiliar.
4. It was established that if the adjournment was to be granted the claimant would represent herself at the next Hearing.
5. The claimant's representative had informed the Employment Tribunal by e-mail on 12 January 2018 that she no longer represented the claimant but no reason was given. The claimant had been informed on the same date that the solicitor could not represent her further.
6. Ms Shaw for the respondent objected to the adjournment and pointed out that this case had been in existence since March 2017 and that the claimant had resigned in 2016. This was the third Preliminary Hearing and significant costs had been incurred to the respondent to date. It was the respondent's position that the amendment had been raised out of time and no explanation had been given for that. It was the respondent's position that the claim and the proposed amendment had no merit and had no reasonable prospects of success. The claimant had been seeking legal representation since June last year and Ms Shaw stated she could not understand why it was proving so difficult for the claimant to obtain representation. She was sceptical of the claimant's position.
7. The respondent had lodged a bundle of documents for today's Preliminary Hearing and it was identified that the minutes of amendment which the claimant was seeking to have accepted was that shown at page 71 of that bundle. The claimant confirmed that that was the proposed minute of amendment. The minute of amendment had been prepared by the claimant's solicitor.

8. In considering whether or not to grant the motion for a postponement I took into account the overriding objective as set out in the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, Schedule 1. The overriding objective set out at Rule 2 requires the Employment Tribunal to deal with cases fairly and justly including where practicable to ensure that parties are on an equal footing; that issues are dealt with in ways which are proportionate to the complexity and importance of them; to avoid unnecessary formality; to avoid delay, so far as compatible with a proper consideration of the issues and; saving expense.
9. I took into account that the solicitor had only relatively recently ceased to act for the claimant and that the claimant did not speak much English and could not read the documents which had been given to her and would require time she said to prepare.
10. On the other hand I took into account that there had already been two Preliminary Hearings in this case and that expense had been incurred to the respondent in appearing for today's Hearing and further expense would be incurred if there was to be a postponement.
11. Having regard to the overall fairness to both parties as required by case of ***O'Cathail v Transport for London [2013] IRLR 310*** I decided on balance to grant the postponement.
12. I was concerned at the delay in progressing this case but considered, on balance, that it would not be in accordance with the overriding objective to proceed with this case where the claimant was now unrepresented and did not speak English to any great extent. I considered she would be disadvantaged if not given an opportunity to prepare for conducting the Hearing itself and to understand the documents contained in the bundle.
13. I was satisfied, from what the claimant stated to me, that she would be in a position at a postponed Hearing to represent herself. I explained to the claimant that if at the postponed Hearing she sought a further postponement on the basis that she had not been able to prepare or had been unable to

obtain further legal advice that such an application might not be favourably received.

14. Having advised the parties that I would grant the motion to postpone it was identified that Thursday 1 March 2018 would be a suitable date for the postponed Preliminary Hearing and accordingly the Preliminary Hearing will now be listed in Glasgow on 1 March 2018 to consider the application for leave to amend and the application for strike out of the claim.

15. The Employment Tribunal service will arrange the services of an interpreter to interpret from English into Polish at the postponed Preliminary Hearing.

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**Employment Judge: Iain F Atack**  
**Date of Judgment: 19 January 2018**  
**Entered in register: 19 January 2018**  
**and copied to parties**

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