



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms R Goddard

**Respondent:** Sunshine Hotel Limited t/a Palm Court Hotel

**Heard at:** London South **On:** 31 October 2018

**Before:** Employment Judge Cheetham QC

## Representation

**Claimant:** in person

**Respondent:** Mr R Chaudhry (solicitor)

## JUDGMENT

1. The Respondent's application for a stay of the judgment is refused.

## REASONS

1. Judgment in this unfair dismissal claim was given on 13 November 2018 and sent to the parties on 19 December.
2. On 6 February 2019, the Respondent applied for a stay of judgment, pending the determination of their application for permission to appeal to the Employment Appeal Tribunal, made on 28 January. The Claimant objected. Unfortunately, that application and the response were not brought to my attention until 27 March; I apologise for the inconvenience that has caused.
3. By then, the Respondent had written again and it is simpler if I set out the relevant part of their application.

*“At the point this application was first made on 6<sup>th</sup> February 2019, the Judgment could be enforced by a claimant after 14 days. However the claimant has enforced proceedings at the County Court (ex parte) as of 30<sup>th</sup> January 2019 . As a result the High Court Enforcement Group acting as bailiffs, have seized the judgment award amount from the Respondent of the Judgment of 19<sup>th</sup> December.*

*The Respondent immediately applied for a stay of the County Court proceedings and following the matter being heard on notice before Oxford County Court on 13<sup>th</sup> March 2019, that matter has now been stayed by the County Court pending the outcome of the appeal.*

*However contrary to assurances given as to its return by the High Court Enforcement Group, the money is still retained by them. It is argued that there is no legal basis for them to do so as no court order authorising their holding of this amount has been applied for or made. It is unfair within the meaning in the overriding objective for them to do so as this represents a considerable sum to the respondent. Their original power arose from the County Court proceedings but that is now stayed. Had the stay been in effect before the seizure of the award sum then they simply could not have seized it.”*

4. I pause only to note that the employment tribunal has no jurisdiction to interfere with the county court’s enforcement procedures, so I make no comment about that. The application continued:

*“It would be unfair on the Respondent within the meaning in the Overriding Objective, and not in the Interest of Justice for this money to be retained. It would also lead to costly and potentially unnecessary litigation in other Jurisdictions to effect its return as it would also potentially involve the Respondent being put to the expense of recovery as there would be no legal requirement for the High Court Enforcement Group to return this amount without further Court proceedings.*

*The Respondent therefore urgently requests a stay of the Judgement following Rule 66(b) of the Rules, until such time as any appeal of the Judgment is concluded. Further, to avoid the need for further and protracted application to the County Court with its impact on costs to the parties and the Public purse, and as this current application still awaits determination by the ET, the Tribunal is asked to both Stay the ET judgment until the outcome of the Appeal is known in line with the attached County Court Stay order and order High Court Enforcement group to return the judgment award to the respondent until such time as the appeal outcome is determined. The Respondents Original application is application accordingly .*

*The Respondent requests the Tribunal also order that the High Court Enforcement Group return the judgment amount with 14 days of being served with the Tribunals order for the stay in this matter.”*

5. Taking that last paragraph first, the employment tribunal has no power to order the High Court or county court to do anything, as already noted.

6. As to the application for a stay, I note that the county court has stayed the enforcement proceedings, pending the outcome of the Respondent's application to the Employment Appeal Tribunal. That being so, it is not clear from the Respondent's letters what would be achieved by ordering a stay of the judgement. I appreciate that the original intention was to prevent enforcement proceedings, but that has already happened and, indeed, had been initiated before the 6 February 2019 letter.
7. The power to grant a stay is discretionary and, in the absence of any obvious purpose being served by such an order, the application is refused.

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Employment Judge Cheetham QC

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Date 10 April 2019