



EMPLOYMENT TRIBUNALS

Claimant

Mr A Curtis

Respondent

v The Norfolk Building Company (UK)
Limited

JUDGMENT

This is a Judgment on the respondent's application for reconsideration.

1. The respondent's application dated 11 March 2019 for reconsideration of the Judgment sent to the parties on 25 February 2019 is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked because:

1. Prior to proceedings being issued, the claimant's Solicitors had written to the respondent and their representative, T H Financial Recovery, on an open basis to demand payment of the claimant's wages and expenses and indeed providing details of those wages and expenses that were claimed.
2. On 22 November 2018, the claimant's Solicitors wrote to the respondent's representative informing them that proceedings had been commenced.
3. The Notice of Claim was sent to the respondent on 29 November 2018 to their registered office address and was not returned to the Tribunal by the Royal Mail as being unable to be delivered or gone away not / known at this address.
4. On 30 November 2018, the claimant's Solicitors wrote to the respondents and their representatives, T H Financial Recovery, informing them that proceedings had been accepted by the Tribunal and putting the respondents on Notice of Costs should the claimant's claim be successful.
5. On 30 November 2018, the claimant's Solicitors wrote to the respondent's advisers, T H Financial Recovery, with copy pay slips and time sheets relating to the claimant's claim.

6. On 3 December 2018, pursuant to the Tribunal's Case Management Orders, the claimant's Solicitors wrote to the respondent and again to their representative to provide a schedule of the claimant's losses and further copies of evidence to substantiate the claim.
7. On 20 December 2018, the claimant's Solicitors received a letter from T H Financial Recovery confirming the respondent would be contesting the claim. They requested a copy of the claimant's ET1 which was duly posted to them on 26 December 2018.
8. On 21 December 2018, the respondent would have received notification from Acas explaining their role in Tribunal proceedings.
9. On 12 February 2019, the claimant's Solicitors forwarded a copy of the claimant's application for Judgment to the respondents.
10. On 20 February 2019, at apparently 15:28 hrs, the claimant's Solicitors received a telephone call from the respondent in response to the claimant's application for Judgment. The respondents apparently acknowledged previous correspondence sent by the claimant's Solicitors during the course of the proceedings. They acknowledged they had received the claim. Apparently, when the writer from the claimant's Solicitors, Mr MacKaye, enquired why they had not filed a defence or requested an extension of time, he was informed,

"I was too busy and had more important things to do."
11. Mr MacKaye then advised the respondent to take legal advice and to respond to the application immediately and to put forward a copy of the objection to the Judgment in default to the claimant's solicitors.
12. The respondents did not object to the application for Judgment being entered by the claimant.
13. On 25 February 2019, the Tribunal posted the Judgment to the respondent.
14. The claimant's Solicitors wrote to the respondent's T H Financial Recovery on 22 February 2019 requesting payment of the Judgment by return.
15. On 28 February 2019 @ 15:25 hrs, the claimant's Solicitors received a further call from the respondents. The respondents again acknowledged they had received a copy of the claimant's claim and were now disputing the exact words as to why they had not filed their response. Apparently, the respondents indicated to the claimant's Solicitor,

"We did receive the claim, but we didn't say we had better things to do, I said I was trying to save the business."

16. Therefore, for the respondent's new representatives to suggest in their application that the respondents had no knowledge of the Tribunal claim and the Judgment that arose from it is simply lacking in credibility. The respondents clearly have been served with the proceedings and have simply not taken the proceedings seriously and in those circumstances, given the above information, the respondents are not entitled to a reconsideration of the Tribunal Judgment.

Employment Judge Postle
Date: ...23 April 2019.....
Sent to the parties on:
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For the Tribunal Office