



THE EMPLOYMENT TRIBUNALS

Claimant: Miss K Fletcher

Respondent: Ecocleen Services (Operations) Limited

Heard at: Teesside Hearing Centre **On:** 8 May 2018

Before: Employment Judge Johnson

Representation:

Claimant: In person

Respondent: Ms Ferjani (Payroll Administrator)
Mr Beukes (Director)

JUDGMENT FOR APPLICATION FOR RECONSIDERATION AND REMEDY

- 1 The title to these proceedings is amended to show the correct name of the respondent as Ecocleen Services (Operations) Limited. I order that re-service be dispensed with.
- 2 The respondent's application for a reconsideration of a default judgment promulgated on 30 January 2018 is dismissed upon withdrawal by the respondent.
- 3 By consent, the respondent is ordered to pay to the claimant compensation in the agreed sum of £1,000 in full and final settlement of all claims which the claimant has or may have against the respondent arising from her employment with the respondent and its termination. It is agreed that the said sum of £1,000 be paid within **14 days** of today's hearing.

REASONS

- 1 This matter came before me this afternoon for a consideration of the respondent's application of a reconsideration of the default judgment on liability which was promulgated on 30 January 2018. If that application were to be

granted then I would make case management orders for a final hearing of the claimant's complaints of unfair dismissal and unauthorised deduction from wages. If the application for a reconsideration were to be refused, I was to consider what, if any, remedy should be awarded to the claimant.

- 2 The claimant again attended in person. The respondent was represented through its Director Mr Beukes and its Payroll Administrator Ms Fergani.
- 3 After a brief discussion, it was agreed that at the time of her dismissal the claimant had been employed not by Ecocleen Services Limited, but by Ecocleen Services (Operations) Limited. It was agreed that the title to the proceedings should be amended to show the correct name of the respondent as Ecocleen Services (Operations) Limited. It was agreed that there was no need for re-service of any of the original documentation, claim form, response form, default judgment etc.
- 4 Mr Beukes formally apologised on behalf of the respondent for its delay in dealing with these proceedings. He referred to the two witness statements provided on behalf of himself and Ms Ferjani which set out in detail the reasons for the delay.
- 5 Mr Beukes indicated that genuine attempts had been made via ACAS to try and resolve the issues in dispute between the parties, particularly because the respondent acknowledged that it was at fault _____ to properly deal with these Employment Tribunal proceedings. Mr Beukes confirmed that an offer in settlement had been made but that it had not been accepted by Ms Fletcher. Ms Fletcher expressed some surprise at this comment, stating clearly that she had not received via ACAS any offers of settlement from the respondent. Mr Beukes confirmed that he was prepared to repeat the offer today in open court, in the hope that it may be acceptable to the claimant.
- 6 I carefully explained to the claimant that she was not obliged to listen to _____ that I was willing to convert today's hearing to a judicial mediation meeting if that meant that the parties were likely to agree to terms of settlement. Ms Fletcher and Mr Beukes confirmed their agreement to this.
- 7 Mr Beukes confirmed that he had instructed ACAS to make an offer to the claimant in full and final settlement of all of her claims, in the sum of £1,000. Ms Fletcher again confirmed that she had not received that offer. Ms Fletcher stated, that had she received that offer, she would have accepted it immediately. Mr Beukes confirmed that this offer remained open to the claimant and that if she wished to accept it today, payment would be made within 14 days.
- 8 I explained to Ms Fletcher that she was under no pressure to accept any offer made by the respondent. I indicated that she would be given time this afternoon to consult with someone by telephone, should she so wish, or alternatively she may seek a postponement to consider the nature of the offer. Ms Fletcher indicated that she was willing to proceed and indicated that she was happy to accept the offer.

- 9 I took time to explain to Ms Fletcher that whilst she has the benefit of a default judgment, I would still have to decide what, if any, compensation should be paid to her in respect of her claims. Ms Fletcher has indicated that her employment with the second respondent was one of two jobs which she had at the time. She did not seek alternative employment once she was dismissed due to problems with her health. Those problems have been exacerbated (she says by the way she was treated by the respondent) to such an extent that she is now unable to work in the second role. I explained to Ms Fletcher that if her health was such that she is now unfit for work then her compensation may be limited to the period of time from her dismissal to the date when she would have become unfit for work with the respondent.
- 10 I also carefully explained to Ms Fletcher that I would have to take into account the extent to which if any she had contributed towards her dismissal by her own conduct. Ms Fletcher has conceded throughout that she actually did what the respondent accused her of doing, namely leaving her post 15 minutes before her finish time and leaving the keys to the premises where she worked either on the counter or behind the counter before she left. In so doing she left the premises unlocked and unsecured.
- 11 Taking into account all of those factors, Ms Fletcher confirmed that she was willing to accept Mr Beukes' offer of £1,000 in full and final settlement of her claim. On that basis I make the judgment set out above.

EMPLOYMENT JUDGE JOHNSON

JUDGMENT SIGNED BY EMPLOYMENT

14 May 2018

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