



EMPLOYMENT TRIBUNALS

Claimant: Ms D Holt-Machen

Respondent: Commonwealth College Limited

HELD AT: Sheffield

ON: 8 June 2018

BEFORE: Employment Judge Rostant (sitting alone)

REPRESENTATION:

Claimant: In person

Respondent: No appearance

JUDGMENT having been sent to the parties on 14 June 2018 and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

REASONS

1. By a claim dated 19 March 2018 the claimant brought a claim of unauthorised deduction from wages. Although at box 2.1 the claimant named as her employee Mr J Morahan, in box 8.2 she said that she had been employed by Commonwealth College of Further and Higher Education and that indeed was the name of the respondent on the EC certificate.
2. By order of Regional Employment Judge Robertson the claim was served on Commonwealth College of Further and Higher Education (CCFHE) on 21 March at the address given on the EC certificate and on the ET3, named 18a High Street, Wath-upon-Derne, Rotherham, South Yorkshire, S63 7QG.
3. The claim form was returned with the envelope endorsed "not this address, return to sender". An internet search was carried out on CCFHE and a new address of 1 Montgomery Road, Wath-upon-Derne, S63 7QW was obtained. The claim was

duly re-served on that address. The claim was once again returned to the Tribunal enclosed with the word “Gone” and with a post office sticker with the “address inaccessible” box ticked.

4. At that point a Company House search was carried out. It revealed the existence of Commonwealth College Ltd as a registered company with its registered office at the 18a High Street address the only named director was Mr Morahan, the same person named in the claim form.
5. By order of Employment Judge Wade of 17 May 2018, the claim was amended so that the respondent was Commonwealth College Limited. She ordered that notice of a forthcoming hearing for 8 June be sent to that company at that address, along with a copy of the claim form, and that was emailed to the email address on the Company House entry, namely enquiries@ccfhe.org.
6. The matter came before me on 8 June. Nobody for the respondent attended.
7. In view of the history set out above, and bearing in mind my powers in Rule 91 Tribunal Rules of Procedure, I considered that the respondent had been served such that its failure to respond permitted me to issue Judgment under Rule 21.
8. It was clear that the claim had been served at both addresses publicly available for the college. Although on both occasions the college had not been served as a limited company, it must have been obvious that the claimant wished to bring her claim against her employer and the respondent had ample opportunity to point out its true status and to respond to the substance of the claim.
9. The claimant applied to amend her claim to include a small claim for accrued holiday. I agreed to that application. The prejudice to the respondent was minimal. It had failed to defend the far greater claim and I considered it highly unlikely that the addition of a holiday pay claim of this magnitude would, if part of the claim, have prompted a response. On the other hand, the claimant's case was that she had been employed for a number of months without receiving any pay at all or any pay slips. I considered it understandable that it would have slipped her mind that she had not taken all the holiday she was owed and was entitled to payment on termination.
10. Having decided the foregoing, there was nothing else to prevent me applying the provisions of Rule 21. On the basis of the material before me, which included the evidence on oath of the claimant, I was able to make a determination that the claimant was entitled to payment in the sum contained in the Judgment because she had been employed by the respondent for four months and had received no pay at all although, by agreement she was to be paid £1,000 per calendar month net of tax.
11. I was also able to calculate the claimant had (pro rata) accrued two days holiday which she had not taken and was thus due £46 x 2 ie £92.

Employment Judge Rostant

Date 10 July 2018

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