



EMPLOYMENT TRIBUNALS

BETWEEN

Claimants: MR I SHEPHERD

Respondent: ACCESS JOBS LTD

PRELIMINARY HEARING

HELD AT: London Central ON: 14 August 2019

HEARD BY EMPLOYMENT JUDGE: Oliver Segal Q.C.

Representation:

For Claimant: Did not attend

For Respondent: Mr W Lane, solicitor

JUDGMENT

The proceedings are adjourned to be heard on **25 and 26 November 2019**.

REASONS

1 The Claimant did not attend today's hearing. He had written in to the tribunal yesterday (13/8) to say that his 9 year old granddaughter had sustained serious injuries the previous day and remained in hospital (supported by medical evidence). He sought an adjournment of the proceedings.

2 Mr Lane asked, pursuant to r. 47, that the tribunal should hear the claim and dismiss it in the Claimant's absence.

3 Mr Lane also informed the tribunal that the Respondent had been dissolved and removed from the Companies House register on 25 June 2019. There had been no prior application for the proceedings to be dismissed on that basis, and Mr Lane fairly provided a copy of an email from the Claimant dated 2 August 2019 in which he wrote "*I have had notice from the Bankruptcy and Companies Court and the[y] have agreed to restore Access Jobs Ltd. I have spoken to them today and it will hopefully be done before the 09-08-19*". Mr Lane stated that his latest information is that the Respondent has not been restored to the register.

4 I read the witness statements provided for today's hearing, together with the key document, an email of 31/3/17 containing headline offer terms, sent by the Respondent to the Claimant. Having done so, I concluded that there were critical issues of fact, on the face of the ET1 and ET3 and the witness statements, which could only be determined on hearing oral evidence.

5 I note in passing that the Claimant had not provided a witness statement in his own name (he did serve two statements from other witnesses) – though that is not a matter which the Respondent has raised with him. If there is any hearing of this case in the future, in order for him to give evidence to the tribunal at such a hearing, he will need to have served on the Respondent a witness statement in his own name in good time before that hearing, explaining why he had not done so as previously directed. It will be for the tribunal in due course to decide whether the Claimant should be allowed to give evidence (if that is his intention), but he will very likely not be allowed to do so if he has not provided a statement to the Respondent in advance.

6 In the circumstances, I decided that, in accordance with the overriding objective, I should adjourn these proceedings, which are re-listed as above. My reasons, in brief, are:-

- a. Although it appears that the Claimant's injured granddaughter is in the care of her mother and the Claimant has not given further detail as to whether/why his personal presence or assistance is required, the Respondent accepted that it was natural that not surprising that the Claimant would feel unable to attend today's hearing in the circumstances.
- b. Given the issues of contested factual evidence, I could not fairly adjudicate the substantive issues in the case in the absence of the Claimant and his witnesses.
- c. There seems to be some uncertainty about the legal status, as at today's date or ongoing, of the Respondent, which again I was not in a position confidently to resolve today.

7 However – and I emphasise the importance of this – the issue of whether the Respondent continues to exist as a legal person, and if so whether as an insolvent company, and if so whether the Claimant needs the leave of the High Court to continue proceedings against it, needs to be addressed by the parties in advance of that hearing. Unless the Claimant is entitled in law to continue these tribunal proceedings against the Respondent, they will likely be dismissed (although there might possibly be grounds for a further adjournment).

EMPLOYMENT JUDGE Segal

14th August 2019 London Central

Date Sent to the Parties

15/08/2019

For the Tribunal Office