



## **EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: 4112767/2018**

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**Held in Glasgow on 2 May 2019**

**Employment Judge: Lucy Wiseman**

10 **Mr Paul Hamilton**

**Claimant  
In Person**

15 **Mr Alan McLean  
t/a The Corran Inn**

**First Respondent  
In Person**

20 **C I Leisure Ltd**

**Second Respondent  
No appearance and  
No representation**

### **JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

The tribunal decided to grant the first respondent's application for reconsideration,  
25 and to revoke the Judgment dated 15 January 2019.

The tribunal further decided to allow a period of 28 days for Mr McLean to enter a response.

### **REASONS**

1. The claimant presented a claim to the Employment Tribunal on the 25 July  
30 2018 alleging he had not been paid wages or holiday pay.

2. The claim was initially brought against the first respondent, who did not enter a response.

3. The second respondent was joined to the proceedings, but did not enter a response.

**E.T. Z4 (WR)**

4. All parties were notified of a Hearing on the 9 January 2019. The respondents did not appear for the Hearing.
5. The Employment Judge heard evidence from the claimant. The Employment Judge decided the claimant had been employed by the first respondent, and ordered the first respondent to pay wages, tips and holiday pay to the claimant.
6. The claimant informed the tribunal that The Corran Inn had closed. The Judgment was, accordingly, sent to the home address of Mr McLean.
7. Mr McLean wrote to the tribunal on the 28 January 2019 seeking a reconsideration of the Judgment on the basis he had not received notification of the hearing.
8. The hearing today was to determine Mr McLean's application for reconsideration.
9. I heard evidence from Mr McLean and I was referred to a number of documents which he produced.

### **Findings of fact**

10. Mr McLean was employed as the Head Chef at The Corran Inn for a period of 7 years.
11. Mr McLean worked for Mr Anthony Chessa who was the leaseholder of The Corran Inn, and who owned the company CRG Ayrshire, which employed Mr McLean.
12. Mr Chessa established a new company, C I Leisure Ltd, with Mr McLean as a Director of that company.
13. Mr McLean believed that company employed the claimant.
14. Mr McLean ceased being a Director of C I Leisure Ltd in May 2018. Document 2 was a copy of the Termination of a Director Appointment confirming this.
15. C I Leisure Ltd was dissolved in April 2019 (document 1).

16. Mr McLean left his employment at The Corran Inn in June 2018.
17. The Corran Inn closed in August 2018.
18. Mr McLean did not receive the claim form which was sent to The Corran Inn, and this explained why he had not entered a response.
- 5 19. Mr McLean did not receive the notice of hearing for the last hearing, and this explained why he had not appeared.

### Decision

20. I had regard to the terms of rules 70 – 72 of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013 which set out the rules regarding applications for reconsideration. Rule 70 provides that on  
10 reconsideration, a tribunal may decide to confirm the original decision, or to vary to revoke it.
21. I accepted Mr McLean's evidence that he had not received correspondence concerning this case because it had been sent to him at The Corran Inn, after  
15 he had left and after the Inn had closed.
22. I was accordingly satisfied Mr McLean had not received notice of the claim and had not, therefore, had an opportunity to enter a response.
23. I decided to revoke (that is, cancel) the Judgement dated 15 January 2019. I further decided to allow a period of 28 days for Mr McLean to enter a  
20 response. (Mr McLean has not received a copy of the claim form or response, and these forms should be copied to him for information and completion of the ET3 response).

### Case management

- 25 24. I explained to Mr Hamilton that on the basis of what he had heard today, it appeared Mr McLean was not his employer (although this would have to be formally decided by another tribunal after Mr McLean had entered his response). It further appeared C I Leisure Ltd (whom Mr McLean believed

was Mr Hamilton's employer) had been dissolved and therefore Mr Hamilton could not achieve payment of any monies from that company.

25. I invited Mr Hamilton to give some thought to how he wished to proceed given what had been heard this morning. The effect of today's hearing is that the Judgment dated 15 January 2019 has been cancelled. Mr McLean will have an opportunity to formally respond to the claim. A tribunal hearing will then be arranged to hear and determine Mr Hamilton's claim against these two respondents, unless Mr Hamilton decides he no longer wishes to proceed, or unless he decides to ask the tribunal to bring in another party whom he believes to be his employer.

**Employment Judge: Lucy Wiseman**  
**Date of Judgment: 07 May 2019**  
**Entered in register: 09 May 2019**  
**and copied to parties**