



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr R Gould

v

Furniture Centre Limited

Heard at: Cambridge
Before: Employment Judge Johnson

On: 8 October 2019

Appearances

For the Claimant: In person

For the Respondent: Mr R Smith, Director

ORDER ON RESPONDENT'S APPLICATION

1. The Application of the Respondent to set aside the Judgment of Employment Judge Ord of 8 May 2019 is refused.

REASONS

1. This is the decision concerning the Respondent's Application to set aside the Judgment of Employment Judge Ord of 8 May 2019 and also seeking an extension of time in which to present a Response in accordance with Rule 20 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.
2. Mr Richard Smith who is a Director at the Respondent Company Furniture Centre Limited, made an Application to me today at the Remedy Hearing of the claim brought by the Claimant, Mr Gould. He explained that he did not have any papers in this case and believed that Marilyn Vallance, the Office Manager at the Respondent Company, may be able to assist him with regard to this matter. He explained that she has been absent from work due to sickness and is due to return next week. However, he confirmed at the hearing of his application, he was unable to provide any particulars as to what had happened to the Tribunal letters and proceedings which had been sent to the Respondent. It was confirmed that the address used by the Tribunal was the correct registered office for the Respondent, but that Mr Smith believed there was sometimes

problems with correspondence reaching the correct office due to a building number not being provided.

3. I noted that the Tribunal has not had any letters of proceedings returned undelivered by the Royal Mail in this case and has no reason to believe the correspondence did not reach the intended address.
4. The Response should have originally been presented on 13 March 2019 and if the extension of time was to be allowed, additional time would be required for the Respondent to take advice and prepare a draft Response to be shared with the Claimant and to be presented with the Tribunal. Ordinarily an Application to extend time should include a copy of the Response and this should have been provided to the Claimant together with an explanation as to why the extension is sought.
5. I have also heard submissions from Mr Gould, the Claimant, who feels that the Respondent has had plenty of time to deal with this matter and he has come to the hearing today to deal with Remedy.
6. I have taken into account my duty under the overriding objective under Rule 2 of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013 to deal with the case fairly and justly. This includes in so far as it is practicable ensuring that the parties are on an equal footing, dealing with the case in a way which is proportionate to the complexity and the importance of the issues, avoiding unnecessary formality and seeking flexibility, avoiding delay so far as is compatible with proper consideration of the issues and saving expense.
7. I have some sympathy with the Respondent who feels that he has been deprived of an opportunity to defend liability in this case. However, there is no evidence before me to suggest that the proceedings have not been delivered to the incorrect address, or that the Respondent has not had a chance to deal with the claim and prepare a Response within the time allowed. Taking into account the overriding objective, it is reasonable for the Claimant to assume that by the date of the Remedy Hearing, that the question of Remedy would be dealt with at this hearing and that the matter could be brought to a conclusion.
8. This is not a case which involves complicated issues such as discrimination and is one dealing solely with unfair dismissal and matters relating to wages. I have no reason to believe that the Respondent did not receive the Claim Form in the usual way and that it was not reasonably practicable for a response to be presented by the 13 March 2019 or for an application for an extension of time to have been made to the Tribunal before this date.

9. Under these circumstances, I must reject the Application and will proceed to hear the question of Remedy in this case.

Employment Judge Johnson

Date: 23 October 2019

Sent to the parties on: ...28.10.19.....

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For the Tribunal Office