



EMPLOYMENT TRIBUNALS

Claimant: Ms T Gazova

Respondent: Mrs H Sumer Wells (trading as Coco Boutique)

APPLICATION TO SUBSTITUTE RESPONDENT ON RULE 21 JUDGMENT

1. Mrs H Sumer Wells be substituted as the respondent in these proceedings. The title of the proceedings is amended accordingly.
2. Pursuant to Rule 21 of the Employment Tribunals Rules of Procedure 2013:
 - 2.1 The claimant's claim for damages for breach of contract (notice pay) succeeds. The respondent is ordered to pay to the claimant £337.
 - 2.2 The respondent has made an unauthorised deduction from the claimant's wages. The respondent is ordered to pay to the claimant £350. This is the gross amount. If the respondent pays the tax and national insurance due to HMRC, payment of the net amount will meet the judgment debt.
 - 2.3 The respondent failed to pay the claimant in lieu of entitlement to annual leave. The respondent is ordered to pay to the claimant the sum of £607.

REASONS

1. The claimant has applied to substitute Mrs H Sumer Wells (trading as Coco Boutique) as a respondent in this matter. I am satisfied from the information before me, including a letter from USDAW dated 24 June 2019 that Mrs H Sumer Wells should have been the respondent to the claim brought by the claimant.
2. Rule 34 of the Employment Tribunals Rules of Procedure 2013 provides: "The Tribunal may on its own initiative, or on the application of a party or any other person wishing to become a party, add any person as a party, by way of substitution or otherwise, if it appears that there are issues between that person

and any of the existing parties falling within the jurisdiction of the Tribunal which it is in the interests of justice to have determined in the proceedings; and may remove any party apparently wrongly included.” I therefore substitute Mrs H Sumer Wells as the respondent.

3. I am further satisfied that the claim form came to attention of the respondent prior to the rule 21 judgment being made in this case. I come to this conclusion because in an email dated 23 September 2018 from Graham Wells to the employment tribunal it was stated:
“I reply on behalf of Mrs H Sumer Wells the sole proprietor of Coco to your letter of 31st July 2018 and Employers (sic) Tribunals Judgment 18th September 2018.”
4. The letter of 31 July 2018 contained the “Notice of a Claim” which when sent to the respondent included a copy of the claim form and informed the respondent that a response was required by 28 August 2018. The letter also contained a notice of the hearing which was at that time listed to take place on the 23 January 2019. The parties were notified that this hearing was vacated by the rule 21 judgment sent on the 20 September 2018.
5. The respondent therefore was aware of the claim and the date by which a response to the claim was required and failed to file a response.
6. I therefore in addition to granting the claimant’s application to substitute the respondent also make a rule 21 judgment against the respondent in the terms set out above, which are the same as those set out in the judgment sent to the parties on the 20 September 2018.

Employment Judge Gumbiti-Zimuto

Date: 31 October 2019

18 November 2019

Sent to the parties on:

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For the Tribunals Office

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