



EMPLOYMENT TRIBUNALS

Claimant: Mr J Tyrrell

Respondent: Servico Ind. Limited

Heard at: Manchester

On: 12 November 2019

Before: Employment Judge Franey
(sitting alone)

REPRESENTATION:

Claimant: In person

Respondent: Mr J Searle (Counsel)

JUDGMENT

Upon reconsideration, the Judgment sent to the parties on 1 April 2019 is revoked.

REASONS

Background

1. Having undergone early conciliation through ACAS on 14 December 2018 against a company identified on the ACAS early conciliation certificate as “Servico Build Tec Ltd”, the claimant presented his claim on 15 December 2018.
2. Box 2.1 asked him to give the name of his employer or the person or organisation he was claiming against, and he entered the name of Mr Dale Heathcote. He gave Mr Heathcote’s address on Kestrel Close. That was an address he had obtained from a company search. In the narrative in box 8.2, however, it appeared that the claimant had worked for Servico Group, a name also appearing in box 2.4. The claim was therefore accepted against Servico Group and served for the attention of Mr Heathcote at the Kestrel Close address.

Rule 21 Judgment

3. No response form was received and on 27 February 2019 the Tribunal asked the claimant to provide the proper corporate title of his employer so judgment could

be issued in his favour. By a response of 24 February he said he had been employed by Servico Group Limited, although paid by Servico Holdings Limited.

4. There was in fact no company with the name Servico Group Limited, and in response to a further query from the Tribunal the claimant supplied a copy of an email of 19 July 2018 containing the documentation relating to his appointment to the role. The covering letter came from Servico Group Limited, but the company number was that of a different company, Servico Ind. Limited. That also was the name of the employing company according to the written statement of the terms of employment which accompanied that email.

5. On that basis Regional Employment Judge Parkin directed that judgment be given against Servico Ind. Limited for the amounts claimed on the claim form. That Judgment was promulgated on 1 April 2019.

Reconsideration Application

6. On 22 July 2019 Servico Ind. Limited applied for the Judgment to be set aside on the basis that it had never employed the claimant. It had only become aware of the Judgment when the High Court Enforcement Officer attended its premises at the end of June 2019. That application was listed for hearing today.

The Hearing

7. I had a bundle of documents containing the Tribunal documents and other material, and witness statements from Mr Heathcote, from the claimant, and from his witness Mr Windsor. As it transpired I did not need to hear any evidence.

8. I began the hearing by asking the claimant to confirm which company had employed him. He said it was Service Build Tec Limited. He accepted that Servico Ind. Limited had not employed him. On that basis the judgment had plainly been entered against the wrong company, and I revoked it.

9. The claimant had received payment of the amount due to him through his High Court enforcement action. To his credit he agreed that the amount he received would now be repaid by instalments. That is a matter to be agreed between the parties and not something over which the Employment Tribunal has any jurisdiction.

Withdrawal of Remaining Claim

10. I asked whether the claimant intended to pursue his original claim against Servico Build Tec Limited. That company is in Creditors Voluntary Liquidation. The claimant has already received payment from the Insolvency Service in respect of his notice pay and outstanding pay for November 2018. The only matter which is still due to him is payment for overtime in the sum of just under £290.

11. Pragmatically he accepted that he was not likely to secure any additional money from a company which was in Voluntary Liquidation, and that therefore there was no point pursuing his claim any further.

12. He withdrew it, and Judgment dismissing that complaint will be promulgated separately.

13. These proceedings are now at an end.

Employment Judge Franey

12 November 2019

JUDGMENT AND REASONS SENT TO THE PARTIES ON

2 December 2019

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