



EMPLOYMENT TRIBUNALS

Claimant

Mr L Keyes

v

Respondent

BL Equipment Limited

Heard at: Bury St Edmunds

On: 16 December 2019

Before: Employment Judge Laidler

Appearances

For the Claimant: In person.

For the Respondent: Mr J Ingram, Sales Manager.

JUDGMENT

1. The respondent's application for reconsideration of the default judgment is granted and the default judgment set aside.
2. The respondent is given leave to defend the claims and its Response of the 20 November 2019 is accepted.

REASONS

- (1) The proceedings were received by the Employment Tribunal on 17 July 2019 and the claimant brought claims of unfair dismissal and race discrimination. They were served on 13 August 2019 together with notification of a preliminary hearing to take place on today's date, Monday 16 December 2019. The date for the filing of the respondent's response was stated in one of the documents sent with the service of the claim to be 10 September 2019.
- (2) No response was received within that time period and on 18 October 2019 Employment Judge Warren signed a default judgment under which the claimant's claim of unfair dismissal succeeded but the claim of race discrimination was stated to require further clarification. That was to be dealt with at this hearing.
- (3) When that judgment was sent to the parties on 8 November 2019 Mr Ingram applied on 20 November 2019 for a reconsideration. He stated that having not been involved in anything like this before he had focused on the date of

the hearing and wrongly assumed nothing would have to be done prior to that date. He enclosed the response that he wished to file on behalf of the respondent denying the claims. He asked that the default judgment be set aside in the interests of justice and the respondent be allowed to defend the claim.

- (4) An indication was given that that application would be dealt with at this hearing.

The relevant Rules

- (5) Rule 70 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 provides as follows:-

“Principles

70. A Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration, the decision (“the original decision”) may be confirmed, varied or revoked. If it is revoked it may be taken again.”

- (6) The claimant stated that it was not acceptable for a company to miss the appropriate date in this way. He suggested it was indicative of the way they had dealt with matters whilst he was employed, as when he had asked for meetings they had not been provided.
- (7) The Judge determined that it was only in the interests of justice that the judgment be set aside in all the circumstances of the case and the respondent be given leave to defend the claims and its response filed on 20 November 2019 will be accepted out of time. This is an earlier stage of the proceedings and the race discrimination claim was to be clarified at this hearing in any event. There is little prejudice to the claimant by virtue of this, whereas there would be greater prejudice to the respondent if they were not given the opportunity to defend these proceedings.

Employment Judge Laidler

Date: 19/12/2019

Sent to the parties on: 28/01/2020

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For the Tribunal Office