



EMPLOYMENT TRIBUNALS

Claimant Mrs W Boyle
Respondent: North Norfolk Limited

JUDGMENT

The respondent's application dated 18 April 2019 for reconsideration of the judgment sent to the parties on 10 April 2019 is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked. The history of the matter records the following:

1. The claim was issued on 19 June 2018 against the respondent which claim form showed the address Stormy House Hotel, Cromer Road, West Runton, Norfolk, NR27 9QA which is clearly the address of the respondent as shown on their own note paper.
2. The claim was acknowledged by the Tribunal on 6 July 2018.
3. Notice of the claim was sent out by the Tribunal on 6 July 2018 to the respondent North Norfolk Limited, Stormy House Hotel, Cromer Road, West Runton, Norfolk, NR27 9QA setting out clearly that a claim had been made against the respondent with the usual accompanying information on how to respond to the claim with the prescribed response form and the fact that if the respondent wished to defend the claim their response must be received at the Tribunal's office on 3 August 2018.
4. On the same day, 6 July 2018 notice of preliminary hearing case management was also sent out, again to the correct address of the respondent. The hearing was a preliminary case management hearing on Friday 30 November 2018 at 10am to take place at Norwich Magistrates Court, Bishopgate, Norwich.
5. On 23 August 2018 the claimant's solicitor telephoned the Tribunal to ascertain whether a response has been submitted and on being informed no such response had been submitted by the respondent made application for a default judgment.

6. Prior to any default judgment being made a company's search was carried out confirming the respondent's registered office was Stormy House Hotel, Cromer Road, West Runton, United Kingdom, NR27 9QA.
7. Given that there was no response, pursuant to rule 21 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 a judgment was entered for liability only in respect of the claimant's claims for automatic unfair dismissal in respect of regulation 7(1) of the Transfer of Undertakings (Protection of Employment) Regulations 2006 [TUPE]. The claim for ordinary unfair dismissal pursuant to the Employment Rights Act 1996. The claim that the claimant had been subjected to direct discrimination and the protected characteristic being disability. Further claims for unlawful deduction of wages, breach of contract and a failure to inform and consult pursuant to the TUPE Regulations. The judgment was for liability only.
8. That judgment was sent to the respondent by the Tribunal on 10 October 2018.
9. On the same day, 10 October 2018 notice was sent to the parties of a remedy hearing to take place at Norwich Magistrates Court on Friday 30 November 2018 commencing at 10am. Once again, the correct address was applied for the respondent.
10. The matter came before Employment Judge Laidler on 30 November 2018 at which Mr Brundle a director of the respondent appeared.
11. Employment Judge Laidler was persuaded to set aside the default judgment and her reasons for that are set out in her judgment sent to the parties on 11 January 2019.
12. Further orders were made, in particular, the respondent was to file and serve his ET3 and his response to the proceedings by 21 December 2018.
13. On the same day Employment Judge Laidler made further case management orders and identified the issues to be determined at a final hearing and listed the final hearing at Norwich on 4 and 5 March 2019.
14. The claimant's solicitor on 30 January 2019 by email to the Employment Tribunal made an application for a further default judgment on liability in accordance with rule 21 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 as a result of the respondent's failure to serve their ET3 and response by 21 December 2018. Clearly Mr Brundle was made aware at the hearing before Employment Judge Laidler that in setting aside the judgment he would have to file a response and the consequences of not filing a response. He failed.
15. The claimant is therefore entitled to judgment.

16. If Mr Brundle, director of the respondent was in any doubt after the hearing before Employment Judge Laidler he should have taken legal advice. It was clear what was required of him at that hearing, he simply had to enter a defence. He failed to do so for the second time and the claimant is clearly entitled in those circumstances to judgment in default.

Employment Judge Postle

Date: 1 July 2019

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE