



EMPLOYMENT TRIBUNALS

Claimant: Miss M Chapman

Respondent: Kushwant Singh-Raud t/a The E-Cig Store

Heard at: Liverpool

On: 18 February 2020

Before: Employment Judge Robinson
(sitting alone)

REPRESENTATION:

Claimant: Miss J Shields, Solicitor

Respondent: Miss C Leyland, Solicitor

JUDGMENT

The judgment of the Tribunal is that the judgment made on 2 August 2019 in favour of the claimant is revoked on the basis that it is in the interests of justice so to do.

REASONS

1. The only question I need to deal with is the question of whether the Judgment that I made on 2 August 2019 in favour of Miss Chapman against Mr Kushwant Singh-Raud t/a The E-Cig Store in the sum of £18,508 should or should not be revoked, confirmed, or amended in some way, under rules 70-72 of the Employment Tribunals Rules 2013.
2. Although Ms Leyland was anxious that we should not start considering the merits of the case, I had to delve into some of the issues surrounding this matter and, consequently, I asked Mr Singh-Raud to give evidence, which I will come to in a moment.
3. On the last occasion, on 2 August 2019, Miss Shields acted for the claimant and Miss Chapman attended. There was no-one in attendance for the respondent. A letter had been sent, on 29 July 2019, to the Employment Tribunal, from Mr Singh-Raud's then solicitors stating that he had received a Rule 21 letter from this Tribunal's administration, but that he was not, and never had been, the employer of Miss Chapman. That letter unfortunately did not find its way to the Tribunal file in time for the hearing on 2 August 2019.

4. The Tribunal has received no ET3 from Mr Kushwant Singh-Raud throughout the whole of this sorry episode, not even in draft form, and I am asked to deal with this matter by Miss Leyland on the basis that Mr Kushwant Singh-Raud cannot possibly be held responsible for any wrongdoing, if any, by E-Cig Stores because he was not a director of that store, he was simply a manager and never her employer. Today, he said he was not the manager of the claimant during the definitive period between December 2018 and February 2019. He was only helping out in the store.

5. That is Mr Singh-Raud's position. He says that his brother was the director of that particular company. The full title is E-Cig Store (Warrington) Limited. I have checked on Companies House and that company is now dissolved and, interestingly, was dissolved in October 2019 after the date that Judgment was promulgated on 23 August 2019.

6. Miss Chapman has not been paid any sums as compensation at the present time. Mr Singh-Raud told me, on oath, that he did not receive the ET1, that he did not receive two letters of 9 May 2019 which gave the respondent notice that he should file his ET3 by 6 June 2019 and the second letter that there would be a hearing on 2 August. He did receive the standard Rule 21 letter that goes out on 18 July 2019, or shortly thereafter, warning of an imminent Rule 21 Judgment.

7. A Rule 21 Judgment was not made because it was felt by the Employment Judge at that stage, dealing with it on an interlocutory basis, that the matter should go to the hearing on 2 August. Only the claimant and her legal adviser turned up on that day.

8. What I now know is that Mr Singh-Raud went to see his solicitor at the end of July and that solicitor wrote to the Tribunal to say that Mr Singh-Raud was not the employer of Miss Chapman.

9. That is the background.

10. I have to revoke the Judgment on 2 August 2019 for the following reason. I am told that the respondent did not receive the ET1. At the moment I have to accept what is said to me but I make no finding of fact on that issue nor is it the reason I revoke my previous judgment. I do not see the difference between the name on the early conciliation certificate, which is E-Cig Stores, and the name on the ET1 (Mr Kushwant Singh-Raud) as a minor error. I think if Mr Singh-Raud had had solicitors to represent him on 2 August 2019 they would have made the point that the Judge, who initially accepted the ET1, should not have done so on the basis that the prospective respondent on the early conciliation certificate is E-Cig Stores and that the ET3 identifies the respondent only as Kushwant Singh-Raud. Miss Shields could not explain that difference to me, and I needed an explanation. That is not a minor error and therefore I have to, on that basis alone, revoke the Judgment of 2 August 2019 because it is in the interests of justice so to do.

11. What I can say is that, if the claimant wishes to pursue Mr Singh-Raud, there is nothing stopping her putting right those errors and pursuing the respondent, for example, under section 18 of the Equality Act 2010. Under that particular section Mr Singh-Raud does not have to be the employer to be responsible for the alleged discrimination. Furthermore, there is nothing stopping the claimant having the company, which may or may not be the employer of the claimant, placed back on the

company register on an application by the claimant's solicitor. Or the claimant may on the advice of her solicitor, simply pursue Mr Kushwant Singh-Raud as her employer because she still believes that actually what he has been telling this Tribunal is not true and he was always her employer at the Warrington store.

12. All those matters would have to be considered in the light of potential out of time issues, but it is always open to a Tribunal to allow claims to be pursued on a just and equitable basis. Those are matters for the claimant's solicitors and Miss Chapman to deal with. At the moment all I can do is revoke the Judgment.

Employment Judge Robinson

Date: 19 February 2020

JUDGMENT AND REASONS SENT TO THE PARTIES ON
25 February 2020

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