



EMPLOYMENT TRIBUNALS

Claimant: Miss A Mattock

Respondent: Serious Food (SFD GB) Limited

Heard at: Reading

On: 14 February 2020

Before: Employment Judge Gumbiti-Zimuto

Representation

Claimant: Not attending and not represented

Respondent: Mr A Stavropoulos (Director)

UPON APPLICATION made by letter dated **31 July 2019** to reconsider the judgment under rule 71 Employment Tribunals Rules of Procedure 2013 dated **20 March 2020**.

JUDGMENT

1. The judgment is revoked.
2. The time for presentation of a response is extended to the 6 June 2019 and the response is accepted.
3. A Final Hearing before an Employment Judge sitting alone has been listed to take place on the **17 July 2020** at 10.00am at the Reading Employment Tribunal, **30-31 Friar Street (Entrance in Merchants Place), Reading, RG1 1DX**.
4. The hearing has been given a time allocation of 1 hour.
5. On or before **6 March 2020** the claimant and the respondent shall send each other a list of all documents that they wish to refer to at the final hearing or which are relevant to any issue in the case, including the issue of remedy. They shall send each other a copy of any of these documents if requested to do so.
6. The claimant and the respondent shall prepare full written statements containing all of the evidence they and their witnesses intend to give at the final hearing and must provide copies of their written statements to each other on or before **17 April 2020**. No additional witness evidence will be allowed at the final hearing without the Tribunal's permission.

REASONS

1. The claimant presented a complaint of breach of contract, unpaid wages and holiday pay on the 7 January 2019. The claim was sent to the respondent on 28 January 2019 and received by the respondent at about the end of January 2019. The respondent was informed that it was required to file a response to the claim by the 25 February 2019.
2. The respondent did not present a response in the time to respond to the claim.
3. On the 13 March 2019 Mr A Stavropoulos a Director of the respondent contacted the employment tribunal by telephone and then sent an email to the employment tribunal in which she stated that "I have only last night become aware of this Notice of Claim internally and have now sought to act as soon as possible. The claim is unfounded and the details presented incorrect". He requested an extension of time to file a response. This communication from the respondent to the employment tribunal was not placed on the employment tribunal file relating to this claim at this time.
4. On 20 March 2019 I signed a rule 21 Judgment. The Judgment was eventually sent to the parties on the 4 April 2019.
5. On 28 March 2019 Mr A Stavropoulos again contacted the employment tribunal as he had not received a response to his email of the 13 March 2019.
6. On 19 April 2019 the file, now including the emails of the 13 March 2019 and 28 March 2019, was placed before me. On the 19 April 2019 I directed that the parties be informed that "No response has been received. An extension of time cannot be granted after the time for presenting a response has passed and no application for an extension had been made before the time for presentation of the response elapsed".
7. Before the direction referred to above was carried out Mr Stavropoulos wrote to the employment tribunal again on the 17 April 2019. In this email he explained how the respondent seeks to refute the claimant's claim.
8. On the 1 May the direction referred to above at paragraph 6 was carried out. The employment tribunal file was again referred to me and I directed that the respondent should file a response together with an application for reconsideration of the judgment. This direction was carried out on the 18 May 2019.
9. On 6 June 2019 the respondent applied for a reconsideration and presented a draft response to the claim, this was followed by the email of 31 July 2019 which set out the circumstances explaining the failure to respond to the claim in time.
10. On 23 August 2019 I directed that the application for a reconsideration be listed for a hearing at which the parties are present, a notice of hearing was sent to the claimant and respondent on the 8 September 2019.
11. The reconsideration application was listed to be heard on the 14 February 2020.

12. At 12:50 on 13 February 2020 the claimant made an application for a postponement of the hearing citing the fact that she was unable to travel to the employment tribunal from Kent and that she had children that needed to be taken to school. The claimant stated that she had not received any correspondence from the employment tribunal since 1 May 2019.
13. I considered the application for a postponement and refused it because the claimant and respondent had been sent a copy of the notice of hearing on 8 September 2019. The claimant was informed that she was entitled to make written submissions if she was unable to attend. It is to be noted that this was the first communication by the claimant with the employment tribunal since the judgment was sent to the parties on the 4 April 2019.
14. At the hearing before me Mr Stavropoulos explained that although the respondent had received the claim and noted the hearing date nobody took action to respond to the claim. The Finance Manager thought the Managing Director was dealing with it and the Managing Director thought the Finance Director was dealing with the claim.
15. I am satisfied that there was a genuine mix up in the respondent's office. I am satisfied that it was the respondent's intention to respond to the claim in time, but its systems failed. I come to this conclusion because of the 13 March 2020, before the rule 21 Judgement was signed by me, Mr Stavropoulos contacted the employment tribunal enquiring about an extension of time to present a response.
16. I have taken into account that there is a serious triable issue between the respondent and the claimant in respect of the claims being made.
17. I have also taken into account that there was a failure in the efficient management of the employment tribunal file in that Mr Stavropoulos contact with the employment tribunal on the 13 March 2019 was not placed on the employment tribunal file on the 20 March 2019 when I considered making the rule 21 Judgment.
18. Having regard to all the circumstances, I have decided that it is in the interest of justice to set aside the rule 21 Judgement and re-list the case for a final hearing. I have listed the case for hearing on the **17 July 2020** at 10.00am at the Reading Employment Tribunal, **30-31 Friar Street (Entrance in Merchants Place), Reading, RG1 1DX.**

Employment Judge **Gumbiti-Zimuto**

Date: 14 February 2020

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE