



EMPLOYMENT TRIBUNALS

Claimant: Miss N Kennedy
Respondent: Atlantic Resource (Services) Ltd
Heard on 12 August 2020 (via CVP)
Before: Employment Judge S Moore
Representatives:

Claimant: In person
Respondent: Mr Goldup, Consultant

JUDGMENT

The respondent's application dated 24 June 2020 for reconsideration of the judgment sent to the parties on 11 June 2020 is refused.

REASONS

Background and introduction

1. On 29 May 2020 a Judgment was given accepting the claimant's claim.
2. The respondent applied for reconsideration of the Judgment on 24 June 2020. In summary the application asserted that the finding the claimant made a 'minor error' within the meaning of Rule 12 (2A) of the Employment Tribunal Rules of Procedure 2013 ("the Rules"), contradicted the claimant's written submissions. The respondent asserted that where the claimant had stated "To confirm, my claim is against Simon James, the company I worked for was Atlantic Resource" demonstrated that she had a clear understanding of the distinct legal identities of Mr James as a private individual and director of the respondent and the respondent as her employer and moreover asserted Mr James was the intended respondent of her claim.
3. The Tribunal heard evidence from Ms Kennedy and submissions from both the parties.

Findings of Fact

4. The claimant understood that the respondent was her employer. Simon James is the person she alleges subjected her to discriminatory conduct and against whom she wished to claim. This was the individual the claimant regarded as whom she worked for. She did not have a complaint against anyone else within the company. Where the claimant stated she wished to claim against Mr James it was about his alleged behaviour and not in the sense of making a legal claim against him personally. There was no evidence to conclude that the claimant had a clear understanding of the distinct legal identities of Mr James and her employer for the purpose of bringing a claim for discrimination.

Conclusion

5. There is no reasonable prospect of the original decision being varied or revoked. I heard nothing today or in the respondent's submissions that lead me to conclude that my Judgment and reasons should be varied or revoked. The claimant's evidence reiterated in my judgment that she wishes to complain about Mr James's behaviour. The ET1 cited Atlantic Resources in Box 2.2. It cannot be in the interests of justice to debar a claimant who is a litigant in person from bringing a discrimination claim as she named Mr James in Box 2.1 and the respondent at box 2, where the address is required.
6. The claimant named her employer in the ACAS certificate and named them on the ET1, albeit in Box 2.2 This can be distinguished from the decision in **Giny v SNA Transport Limited (UKEAT/0317/16)**. In that case the claimant incorrectly cited the name of a director in both the ACAS certificate and the ET1. The name on the early conciliation certificate does not differ in this case as "Atlantic Resource" was cited in both the certificate and the ET1.
7. The respondent in my judgment plainly must have envisaged a claim against the company from the early conciliation process as they were cited in the certificate. Mr James is a director of the respondent. He was intrinsically linked with the respondent. The description of Mr James in box 2.1 was in my judgment a minor error.

Employment Judge **S Moore**

Date: 12 August 2020

JUDGMENT SENT TO THE PARTIES ON 13 August 2020

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FOR THE TRIBUNAL OFFICE