



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss C Wooldridge

**Respondents:** Botleigh Grange Hotel Ltd (In Administration)  
Botleigh Grange Limited (In Administration)

**UPON APPLICATION** made by letter dated **3 June 2020** to reconsider the judgment dated **21 May 2020** under rule 71 of the Employment Tribunals Rules of Procedure 2013, and without a hearing

## JUDGMENT

1. The judgment striking out the claim against Botleigh Grange Ltd is revoked.
2. By consent, the stay imposed upon the claim against Botleigh Grange Ltd dated 30 January 2020 is lifted.
3. Case management orders are given separately.

## REASONS

1. The Insolvency Act 1986 prevents any claim continuing against a company in administration without the permission of the administrator or the court which has the power to wind the company up. The employment tribunal cannot give that permission.
2. Miss Wooldridge initially presented her claims against Botleigh Grange Hotel Ltd. The claims were stayed on 8 March 2019 because it was in administration.
3. Botleigh Grange Hotel Ltd was subsequently added as a respondent, notice of which was served on 5 June 2019.
4. Botleigh Grange Ltd did not enter a response and on 7 August 2019 a direction was made that "Under rule 21 of the above Rules, because you

have not entered a response, a judgment may now be issued. You are entitled to receive notice of any hearing, but you may only participate in any hearing to the extent permitted by the Employment Judge who hears the case”

5. On 13 January 2020 Botleigh Grange Ltd went into administration.
6. The claim against Botleigh Grange Ltd was stayed on 30 January 2020.
7. At the time of both stays, letters were sent to Miss Wooldridge that stated “You should decide whether to ask the Administrator for such consent or whether to apply to the court for such permission. If you obtain the consent of the Administrator or the permission of the court, you should send a copy to this office immediately. Otherwise an Employment Judge will consider your claims against the second respondent in 6 months. You will then be asked whether you have applied to the Administrator or to the court and, if so, with what result. If no such application has been made (or if it has been refused), the Judge may then ask you to give reasons why your claims should not be struck out because they are not being actively pursued.”
8. The Tribunal had not heard from Miss Wooldridge that she had obtained permission and so wrote to her on 11 May 2020 stating “I refer to the Tribunal’s letters dated 8 March 2019 and 20 January 2020. You have not told us that you have obtained the consent of the Administrators or the permission of the court to allow your claim to proceed. Accordingly, Employment Judge Dawson proposes to strike out the claim because it has not been actively pursued. If you wish to give reasons why this should not be done, you must do so in writing within 14 days of the date of this letter. You should say whether an application has been made to the Administrators or the court and, if not, why not. If such an application has been made, you should say when and what the result was. If you do not give an acceptable reason, the claim will be struck out without further notice. Please reply, in writing, on or before 18 May 2020.”
9. Miss Wooldridge did not answer that correspondence and so the claim was struck out.
10. Miss Wooldridge has now obtained the consent of the administrator of Botleigh Grange Ltd for the proceedings to continue against it. The administrator has written,

To the best of our knowledge, the Company was a non-trading, property holding Company that owned the freehold to the premises at Botleigh Grange Hotel, which it acquired from Botleigh Grange Hotel Limited in August 2016.

Addison Way Limited (“AWL”) was the operating Company trading from the hotel under an operating management agreement and we understand that your client’s employment contract was with this entity. Furthermore, we have found no evidence that the Company operated a bank account. Accordingly, our understanding is that the liability for any wages lies with AWL.

Furthermore, in a recent Tribunal decision regarding these entities, AWL was held as an employing company.

Nevertheless, I can confirm that the Joint Administrators do not object to your client continuing proceedings in the Employment Tribunal against the Company.

11. Although Botleigh Grange Ltd denies that it was the employer of the claimant and an earlier judgment in respect of other claimants in a similar position to this claimant (1400574/19 and others) found that Botleigh Grange Ltd was not their employer, it is in the interests of justice for the judgment against Botleigh Grange Ltd to be set aside so that the claimant's claim, on its own facts, can be determined. Even if, ultimately, the claim against Botleigh Grange Ltd is unsuccessful the tribunal may make other findings of fact which may assist the claimant.
12. This is not a case where the judgment was entered after a determination of the merits of the case
13. Thus, it is in the interests of justice for judgment against Botleigh Grange Ltd to be set aside, the stay will be lifted and the matter proceed to a hearing,

Employment Judge Dawson

Dated: 1 September 2020

Judgment sent to parties: 14 September 2020

FOR THE TRIBUNAL OFFICE