



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr J Smith

**Respondent:** Millers Citax Ltd

**Heard at:** Manchester (by CVP)

**On:** 29 September 2020

**Before:** Employment Judge Ross

## REPRESENTATION:

**Claimant:** In person

**Respondent:** Mr Apperly, Accountant

## JUDGMENT ON RECONSIDERATION

The judgment of the Tribunal is that the claimant's application for a reconsideration of the Rule 21 judgment dated 18 November 2019 and sent to the parties on 2 December 2019 is not well founded and fails. Accordingly, the judgment dated 18 November 2019 stands.

## REASONS

1. The claimant presented a claim to the Employment Tribunal in July 2019. A copy of the claim was sent to the respondent at their correct address including full postcode by letter of 15 August 2019. Before that on 13 August 2019 ACAS had contacted the respondent. It had provided an early conciliation certificate.
2. The case was listed for hearing at the same time as the letter informing the respondent of the claim form was sent. The hearing was fixed for 19 October 2019.
3. On 9 October 2019 the Tribunal wrote to the claimant and the respondent explaining that the respondent had failed to file a response and a judgment would now be issued but further information was required from the claimant to enable the Tribunal to do this.

4. On 11 October 2019 Mr Abram of the respondent contacted the Tribunal asking for the remedy hearing to be postponed. He did not file a response.
5. It was not until 16 December 2019 that the respondent filed a response.
6. At the reconsideration hearing today Mr Apperly for the respondent said the basis on which the respondent was applying for the Rule 21 judgment to be set aside and that the respondent be permitted to file a response out of time was because the respondent had been unaware of these proceedings and so it was not in the interests of justice to allow the Rule 21 judgment to stand.
7. The claimant objected. He said he had complied with all the relevant procedures and the matter had dragged on for a long time.
8. The power to reconsider a judgment is found at Rule 70 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations Schedule 1. This states, "a Tribunal may, either on its own initiative (which may reflect the request from an Employment Appeal Tribunal) or on the application of a party reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration the decision "the original decision may be confirmed, varied or revoked". If it is revoked it may be taken again. I remind myself that the grounds of success for reconsideration application are that the consideration is necessary in the "interests of justice". It is common in litigation that a party who is unsuccessful considers it is in the interests of justice to have a decision reconsidered. I remind myself that the interests of justice provision allows a discretion which must be exercised judicially and it means having regard, not only to the interests of the party seeking the reconsideration but also to the interests of the other party to the litigation and also to the public interest requirement that there should, so far as possible, be finality of litigation (Outasight -v- Brown UK EAT 053/14. I remind myself that in that case it was held that cases which determined the meaning of "interests of justice" under the old 2013 Employment Tribunal rules of procedure remain relevant. I base this on which reconsideration is sought in this case is that the respondent did not comply with the time limit for service of proceedings because they were unaware of the claim.
9. I am not satisfied that this is correct. The Tribunal served the claim form on the respondent at the correct address with the correct postcode and accordingly the proceedings are deemed to have been served. I also note that Mr Abram from the respondent accepted in an email to the Tribunal in October that he was aware of the proceedings when contacted by ACAS in August 2019.
10. I find the respondent was also aware that the Tribunal were minded to order a Rule 21 judgment because the respondent even if they had not received the original proceedings had certainly received the letter dated 9 October 2019 informing them of that fact because the respondent contacted the Tribunal on 11 October 2019.
11. Therefore, despite being aware of the proceedings at the latest by 9 October 2019, the respondent did not file a response until 16 December 2019. There is no clear explanation for that delay.

12. The sums involved are relatively small, rules in the Employment Tribunal are normally interpreted strictly given the interests in finality of litigation.
13. For these reasons I find it is not in the interests of justice to set aside the Rule 21 judgment and allow the respondent to serve a response out of time and accordingly the original judgment stands.

Employment Judge Ross  
9 October 2020

JUDGMENT AND REASONS SENT TO THE PARTIES ON  
23 October 2020

FOR THE TRIBUNAL OFFICE

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[JE]