



EMPLOYMENT TRIBUNALS

Claimant: Gisele H da Cruz Andrade

Respondent: Stirling Ackroyd Legal LLP

JUDGMENT ON RECONSIDERATION

The judgment of 14 October 2020 is varied by the addition of the paragraphs set out below, and Case Management Orders are made.

REASONS

1. Subsequent to a hearing on 14 October 2020 I promulgated a judgment which struck out the response of the Respondent. I reduced the length of the hearing to one day, on the basis that there would be no cross examination of the Claimant, but I gave no other direction as to how that hearing would be conducted and what it would consider.
2. Both parties need to know this, and so of my own volition I reconsider my judgment, and vary it as below, and give case management orders.
3. The relevant procedural rules are in Schedule 1 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013. Those relevant Rules are as follows:

Effect of non-presentation or rejection of response, or case not contested

21.—(1) Where on the expiry of the time limit in rule 16 no response has been presented, or any response received has been rejected and no application for a reconsideration is outstanding, or where the respondent has stated that no part of the claim is contested, paragraphs (2) and (3) shall apply.

(2) An Employment Judge shall decide whether on the available material (which may include further information which the parties are required by a Judge to provide), a determination can properly be made of the claim, or part of it. To the extent that a determination can be made, the Judge shall issue a judgment accordingly. Otherwise, a hearing shall be fixed before a Judge alone.

(3) The respondent shall be entitled to notice of any hearings and decisions of the Tribunal but, unless and until an extension of time is granted, shall only be entitled to participate in any hearing to the extent permitted by the Judge.

Dismissal of response (or part)

28.—(1) If the Employment Judge considers that the response to the claim, or part of it, has no reasonable prospect of success the Tribunal shall send a notice to the parties—

(a) setting out the Judge's view and the reasons for it;

(b) ordering that the response, or the part in question, shall be dismissed on such date as is specified in the notice unless before that date the respondent has presented written representations to the Tribunal explaining why the response (or part) should not be dismissed; and

(c) specifying the consequences of the dismissal of the response, in accordance with paragraph (5) below.

(2) If no such representations are received, the response shall be dismissed from the date specified without further order (although the Tribunal shall write to the parties to confirm what has occurred).

(3) If representations are received within the specified time they shall be considered by an Employment Judge, who shall either permit the response (or part) to stand or fix a hearing for the purpose of deciding whether it should be permitted to do so. The claimant may, but need not, attend and participate in the hearing.

(4) If any part of the response is permitted to stand the Judge shall make a case management order.

(5) Where a response is dismissed, the effect shall be as if no response had been presented, as set out in rule 21 above.

Case management orders

29. The Tribunal may at any stage of the proceedings, on its own initiative or on application, make a case management order. The particular powers identified in the following rules do not restrict that general power. A case management order may vary, suspend or set aside an earlier case management order where that is necessary in the interests of justice, and in particular where a party affected by the earlier order did not have a reasonable opportunity to make representations before it was made.

Reconsideration of Judgments

Principles

70. A Tribunal may, either on its own initiative (which may reflect a request from the 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.

4. I add paragraphs 51 – 52 to the decision of 11 September 2020:

“51. Pursuant to Rule 21(3) of the Rules I permit the Respondent to participate in the remedy part of the hearing which will, if the Claimant succeeds in obtaining judgment, immediately follow the liability hearing, on the same day.

52. That participation by the Respondent may include cross examination of the Claimant as to the extent of her loss and the making of submissions as to remedy to be awarded.”

5. I make the following **Case Management Orders**:

- 5.1. No later than 4 weeks before the hearing the Claimant is to send a detailed witness statement with supporting documents to the Tribunal, and copied to the Respondent (for information only).
- 5.2. No later than 4 weeks before the hearing the Claimant is also to serve on the Respondent a detailed schedule of loss, with full calculations shown.
- 5.3. She is at the same time to send copies of all the documents on which she relies to establish her loss.

- 5.4. All these documents must be sent electronically, and not in paper form.
- 5.5. No later than 2 weeks before the hearing the Respondent may send a counter schedule of loss and supporting documentation (again electronically and by email) to the Claimant and to the Tribunal.
- 6. The Employment Tribunal conducting the hearing will make any other directions required on the day of the hearing.
- 7. The parties are put on notice that the hearing is likely to be held virtually.

Employment Judge Housego
Dated: 17 November 2020