



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms J Jurak

**Respondent:** Croeso Staff Limited

**Heard at:** Cardiff (by CVP)                      **On:** 17 November 2020

**Before:** Employment Judge RL Brace

**Representation:**

Claimant: In person

Respondent: Did not attend

## JUDGMENT

The respondent's application dated 4 February 2020 for reconsideration of the Judgment sent to the parties on 3 January 2020 is refused.

## REASONS

1. If a party fails to attend or be represented at a hearing, under rule 47 ET Rules of Procedure, a tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it shall consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence.
2. No representative for the Respondent attended on the Respondent's application for a reconsideration of the Judgment despite:
  - a. a Notice of Hearing having been sent to the email address given to the Tribunal by Craig Davies, director of the Respondent; and

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- b. waiting 15 minutes from the listed commencement of the hearing at 2pm, for a representative of the Respondent to attend.
3. No telephone number had been provided by the Respondent, but an email was sent to Mr Davies, by the Tribunal clerk asking him if he intended to attend after the commencement of the hearing.
4. Having made such enquiries, the papers available were reviewed as follows:
  - a. On 9 October 2019, the Claimant issued a claim in the Tribunal claiming the sum of £1225 in respect of holiday pay. The address for service on the Respondent was given as The Counting House, Dunleavy Drive, Celtic Gateway, Cardiff CF11 0SN. This was, at that time, the Respondent's registered office.
  - b. No ET3 response was received from the Respondent by 10 November 2019 and a letter was sent to the Respondent confirming that under Rule 21 of the Employment Tribunal Rules of Procedure 2013, a judgment may now be issued and that the Respondent may only participate in any hearing to the extent permitted by an Employment Judge who hears the case.
  - c. On 17 December 2019, the Employment Tribunal wrote to the Claimant asking the Claimant to explain how much she was claiming and showing how she had calculated that figure. This information was received by way of email from the Claimant on 23 December 2019.
  - d. On 2 January 2020, in the absence of the ET3 response from the Respondent and there being sufficient material before me in the email from the Claimant sent on 23 December 2019 to enable a proper determination to be made, Judgment was given in the sum of £1225.60 in respect of 153.2 hours untaken annual leave. This Judgment was also sent to the Counting House address of the Respondent being still the Respondent's registered office.
  - e. On 4 February 2020, Mr Davies director and on behalf of the Respondent wrote into the Tribunal having received the Judgment. He stated that the Respondent had not received the ET1 and had not been sent an ET3 form to complete. He stated that the amount claimed was incorrect. He stated that he had been on annual leave and had arrived back in the UK the previous week.
  - f. He included in his email an extract of an email between the parties in which the Respondent admitted that the Claimant was owed £832 in respect of 116 hours unpaid accrued annual leave from 1 January 2019, but not the amount claimed by the Claimant.
  - g. It was noted that the ET1 had been returned to the Employment Tribunal marked 'Gone Away' notwithstanding that:
    - i. The Counting House address was still the Respondent's registered office as filed at Companies House; and

- ii. The Respondent had received the Rule 21 Judgment that had also been sent to that Counting House address.
  - h. The Respondent's email was treated as an application for reconsideration of the judgment. As the Respondent had indicated that its director had been out of the country, it was considered in the interests of justice to extend time for applying for the reconsideration and the application was accepted.
  - i. The parties were informed that unless all parties consented in writing to the judgment being varied as requested from £1225.60 to £832, the judgment would be reconsidered by an Employment Judge at a hearing.
  - j. Mr Davies again wrote on 30 July 2020 consenting to the Judgment being varied.
  - k. The Claimant objected and this reconsideration hearing was listed by CVP. A Notice of Hearing was emailed to the parties on 4 November 2020 and on 5 November the parties were directed to send by electronic copy any documents or written submissions relied on by 12 November 2020. Later that day, Mr Davies responded confirming that he had no new evidence, '*only my original defence*'.
5. The Claimant confirmed to the Tribunal that she disagreed with the figures provided by the Respondent and that the figures that she had provided were accurate. The Claimant had not been paid by the Respondent for any annual leave during the whole of her employment with the Respondent that had commenced on 25 October 2018 and had ended on 8 July 2019. She had not been paid at all for the four days' leave she had taken to go to Poland following her father's passing.
  6. The Claimant had not been informed by the Respondent that the Respondent's leave year commenced in January each year.
  7. The Tribunal concluded that it was not in the interests of justice to reconsider the Judgment issued and the application was refused.
  8. The purpose of the reconsideration is not to provide the parties with the opportunity to relitigate the matter and there is a strong public interest that there should, so far as possible, be finality of litigation.
  9. The application is therefore refused.

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Date 17 November 2020

JUDGMENT SENT TO THE PARTIES ON 18 November 2020

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FOR THE TRIBUNAL OFFICE