



EMPLOYMENT TRIBUNALS

Claimant: Ms Vania de Faria

Respondent: The Black Cab Cafe Limited (1)
The Black Cab Coffee Company (2)

Before: Employment Judge Sage

Representation was in writing from both parties.

UPON APPLICATION made by letter dated **19 October 2020** to reconsider the judgment under rule 71 Employment Tribunals Rules of Procedure 2013 dated **25 September 2020**

JUDGMENT

1. The judgment is revoked.
2. The Respondent is ordered to serve a response on the Claimant, with a copy to the Tribunal within **14 days** of the promulgation of this judgment.
3. The case will be listed for a one-day hearing, the date will be sent to the parties in due course. The following case management orders are made:
 - (a) the parties are to exchange documents 28 days after the date of promulgation of this decision.
 - (b) the parties are to agree an index to the bundle 56 days from the date of this decision and to prepare a bundle for the hearing which can be electronic or hard copy whichever is the most appropriate;
 - (c) The parties are to exchange witness statements 28 days before the hearing.
 - (d) the Claimant is to serve on the Respondent an updated schedule of loss 14 days before the hearing.

REASONS

1. The Respondent stated in their application for reconsideration that a business partner failed to inform the respondent of the claim form and subsequently they have discovered what they described as a 'potential fraud'. They state that they were unaware of the partner's fraud and only became aware of these proceedings when the default judgment was received. They asked for the matter to be reconsidered and state that their defence should be allowed to proceed.
2. The application was presented in time, the judgment being sent on the 6 October 2020 and the application for reconsideration being received on the 19 October 2020.
3. The Claimant objected saying that despite the reconsideration application being served, the ET3 still had not been filed. They state that the Respondent's officer was aware of the claim in August 2020 but failed to provide a response. They state that the Respondent's defence had no reasonable prospect of success and should not be allowed to proceed. The Claimant stated that the balance of hardship fell disproportionately on her as she will suffer further delay and be kept out of money that is due to her. She will also incur further expense in pursuing the claim in a Tribunal hearing.

Decision

4. It is in the interests of justice in this case to grant the application for a reconsideration, to revoke the default judgment and to allow the Respondent to defend the claims against them. Part of the claim relates to unfair dismissal. In order to do justice between the parties in a claim for unfair dismissal, it is right that the Respondent should be allowed to defend this claim and to present evidence to the Tribunal in relation to the fairness or otherwise of the process and to present evidence in relation to Polkey and contribution.
5. Although the Claimant will suffer some delay while this matter is listed for a hearing and the defence is served, this does not outweigh the prejudice that will be suffered by the Respondent in having to pay an award that was made without hearing any evidence or submissions from them.
6. The prejudice suffered by the Claimant can be ameliorated by setting a short time limit on the Respondent to serve their ET3 defence within 14 days and this case will be listed without delay.

Employment Judge **Sage**

27 November 2020