



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Mr Derek McCoy

AND

Respondent

First Greater Western Limited

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT Bristol

ON

2 February 2021

EMPLOYMENT JUDGE J Bax

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The judgment of the tribunal is that the claimant's application for reconsideration is granted and the claim form is accepted with effect from 16 October 2020.

REASONS

1. The Claimant applied for reconsideration of the letter from the tribunal dated 7 October 2020, under which the Claimant was notified of the tribunal's decision that the claim had been rejected. The name of the Respondent on the Early Conciliation Certificate was 'First Group plc. GWR'. The name of the Respondent on the claim form was 'First Greater Western Limited'. Both entities had the same address.
2. On 16 October 2020, the Claimant applied for a reconsideration of the decision to reject the claim. It was explained that the Claimant, at the time

- of commencing early conciliation, was a litigant in person and subsequently instructed Essential Employment Law Services Limited to act on his behalf, who identified that the correct name for the Respondent was First Greater Western Limited, which was part of First Group plc and was more commonly known by its brand GWR. The letters received by the Claimant in relation to his disciplinary hearing had 'GWR' as the name of the organisation in the letter head, and the name 'First Greater Western Limited' was in small print at the foot of the letter. The Claimant thought that he was employed by GWR. It was suggested that this was a minor error and reliance was placed on Mist v Derby Community Health Service NHS Trust UKEAT/-170/15/MC.
3. On 19 October 2020, the Claimant amended the application in the light of the changes to the Employment Tribunal Rules which took effect on 8 October 2020.
 4. On 18 November 2020, the Claimant chased the progress of his application and said that an appeal had been filed at the Employment Appeal Tribunal.
 5. On 31 January 2021, the Claimant chased the application against and said that EAT had asked what the result of the application was.
 6. On 2 February 2021 the application was referred to me with an explanation that it had been missed. I assume that it was for reasons relating to an increased workload and pressure on the Tribunal Administration, which cannot have been helped by the effect of the Covid-19 pandemic.
 7. Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure 2013 ("the Rules").
 8. A decision not to accept a claim under Rule 12 can be reconsidered in accordance with Rule 13. Under Rule 13(2) an application for reconsideration under Rule 13 must be made within 14 days of the date on which the decision (or, if later, the written reasons) were sent to the parties. The application was therefore received within the relevant time limit and post-dated the change in the rules.
 9. Rule 12 provides (1) The staff of the tribunal office shall refer a claim to an Employment Judge if they consider that the claim, or part of it, may be – ... (f) one which institutes relevant proceedings and the name of the respondent on the claim form is not the same as the name of the prospective respondent on the early conciliation certificate to which the early conciliation number relates. ... (2A) The claim or part of it, shall be rejected if the Judge considers that the claim. Or part of it, is of a kind described in sub-paragraph (e) or (f) of paragraph (1) unless the Judge considers that the claimant made

- [an] error in relation to a name or address and it would not be in the interests of justice to reject the claim.
10. The grounds for reconsideration are only those set out in Rule 13(1), namely that either (a) the decision to reject it was wrong; or (b) the notified defect can be rectified.
 11. The grounds relied upon by the claimant is that he made an error in the name of the Respondent.
 12. Applying these principles in this case, the application to reconsider was made after the change in rules from a reference to “a minor error” to “an error” and the application should be considered in the light of the amended rules. The Claimant, who was a litigant in person at the time of notifying ACAS about the dispute, had received correspondence from the Respondent which was headed ‘GWR’. GWR is also the brand under which the Respondent operates its railway franchises. The actual name of the Respondent is in small print at the foot of the letter and after the name and signature of the person signing it. Great Western Railway Limited is part of the First Group plc group of companies. I accepted that the Claimant had made an error in correctly identifying the name of the Respondent and that the claim was directed to the correct entity. The Respondent is part of a complex group of companies, which would make it difficult for a litigant in person to identify the correct entity. It is also significant conciliation took place with the parent company. The prejudice to the Claimant outweighs that to the Respondent. In the circumstances of this case, it would not be in the interests of justice to reject the claim.
 13. The reason that that there had been an error was not communicated to the Tribunal until 16 October 2020 and therefore the claim was accepted from that date.

Employment Judge J Bax
Date: 2 February 2021

Judgment sent to Parties: 16 February 2021

FOR THE TRIBUNAL OFFICE