



**EMPLOYMENT TRIBUNALS**

**BETWEEN**

**Q Qin  
Claimant**

**and**

**Watches of Switzerland Operations Ltd  
Respondent**

**Judgement**

**HELD AT: London Central ET      ON: 30 April 2021**

**BEFORE: Employment Judge Russell (sitting alone)**

**Claimant - Mr Riedel for the Claimant  
Respondent- Mr M Haworth In house Counsel**

**Judgement**

The Respondent be permitted to have filed their defence out of time and so the ET3 filed on 17 March 2021 stands as its defence.

Reasons

As part of the preliminary hearing today I had to determine whether the Respondent should have time extended for the filing of its ET3 before making case management orders.

I determined having heard submissions from both parties, including objections from the Claimant, that the Respondent should be permitted to file their defence out of time for these reasons.

1. The main fault with the claim for not having been received by the Respondent over a significant period of time (and I find that it wasn't so received by the Respondent for some reason when originally issued) was with the employment tribunal. Administrative reasons exacerbated by the pandemic.
2. Although the Respondent did expect a claim form in or around mid-January they asked the tribunal to clarify the position in a timely manner when none was received and chased this on a number of occasions .
3. It was not until prior to the proposed first preliminary hearing 24 March that the Respondents saw the claim form and immediately put in a formal request for an extension of time as well as an ET3 filed on 17 March 2021.

4. Although the Claimant argued that this was in breach of rule 20 of the ET Rules such rule only applies where the Respondent knew of and had seen the claim so they knew or ought to have known they would otherwise be out of time and or needed to extend time for filing their defence . And of course they couldn't put in even a draft defence to a claim they had not seen.
  5. Applying the overriding objective the prejudice that would be suffered by the Respondent through having no further part in the proceedings on Liability outweighs the short delay in this matter , at this very early stage of the case , as far as the Claimant is concerned.
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EMPLOYMENT JUDGE Russell

May 12 2021  
Order sent to the parties on

12/05/21.

for Office of the Tribunals