



EMPLOYMENT TRIBUNALS (SCOTLAND)

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Case no 4103194/2020 (V)

Held remotely on 14 May 2021

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Employment Judge W A Meiklejohn

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Mr S Greenhill

**Claimant
In person**

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Mr A D Sinclair

**Respondent
In person**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Employment Tribunal is as follows –

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1. The respondent's application under Rule 20 of the Employment Tribunal Rules of Procedure 2013 for an extension of time for presenting his response to the claim is granted.
2. The Judgment issued on 4 August 2020 under Rule 21 of the Employment Tribunal Rules of Procedure 2013 is set aside.
3. The respondent is ordered to pay to the claimant the sum of **ONE THOUSAND POUNDS (£1000.00)** in full settlement of his claims for notice pay, redundancy payment and holiday pay.

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REASONS

1. This case came before me for a preliminary hearing, conducted by means of the Cloud Video Platform, for the purpose of determining an application by the respondent for an extension of time for an ET3 response form to be presented, in terms of Rule 20 of the Employment Tribunal Rules of Procedure 2013 (the “Rules”). Both parties participated in person.

Procedural history

2. The claimant presented an ET1 claim form on 5 June 2020. This named the respondent and gave his address as 11 Leslie Mains, Glenrothes, Fife KY6 3FB. No ET3 response form was lodged and a Judgment under Rule 21 of the Rules was issued on 4 August 2020.
3. The respondent submitted an application for reconsideration of the Rule 21 Judgment but this was rejected on 25 September 2020 for non-compliance with Rule 71 of the Rules (because it was not copied to the claimant).
4. The respondent then submitted an application for an extension of time to present his ET3 under Rule 20 of the Rules. The reasons for the application were that (a) he had not lived at the Glenrothes address for around three years and had not received notice of the claim and (b) he had not been the claimant’s employer. The proposed ET3 response form provided by the respondent stated that the claimant’s employer had been S120 Ltd.

Discussion

5. I noted in advance of the hearing that S120 Ltd had been dissolved on 22 September 2020, pursuant to an application under section 1003 of the Companies Act 2006 to have the company struck off. This application was dated 25 March 2020 and was signed by the respondent as a director of S120 Ltd.

6. The respondent's position was that the claimant had been employed initially by a company called Driveflight Ltd and then, from a date in 2019, by S120 Ltd. He had not been employed by the respondent personally. After discussion, the claimant accepted that this was correct.
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7. There was disagreement between the parties as to when the claimant's employment started. It was however agreed that his employment had ended when the business operated in Kirkcaldy by S120 Ltd closed on 3 March 2020.
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8. There was then disagreement between the parties as to what monies were due to the claimant on termination of employment. This reflected the disagreement on start date and therefore length of service for the purpose of calculating the claimant's entitlement to notice pay and redundancy pay. There was also disagreement as to whether the claimant had an entitlement to payment for holidays accrued but untaken on termination.
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9. There were discussions through ACAS which reached a point where the claimant was to produce bank statements to evidence payment of salary so as to confirm his alleged period of employment. However the claimant then ran into difficulty in obtaining from his bank the statements he was seeking. He then presented his ET1 and matters proceeded as noted above.
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10. The respondent accepted that the claimant had been entitled to receive from S120 Ltd the notice pay, redundancy pay and holiday pay (if any) due to him on termination of employment. We discussed the practical difficulty that this company, having been dissolved, no longer existed which meant that I could not order it to be brought into these proceedings as the correct respondent.
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11. The respondent indicated a willingness to pay to the claimant the sums to which he believed the claimant had been entitled on termination of employment. He said he would need to obtain figures from his accountant.
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12. The respondent then proposed to settle with the claimant in respect of the claims he had brought in the sum of £1000. The claimant confirmed that he was prepared to accept this.

5 **Disposal**

13. I considered that this was a sensible and fair outcome. I confirmed that I would issue a Judgment in the terms set out above.

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Employment Judge: Sandy Meiklejohn
Date of Judgment: 17 May 2021
Entered in register: 28 May 2021
15 and copied to parties