



EMPLOYMENT TRIBUNALS

Claimant

Ms Rebecca Vergnac

v

Respondent

J Immaculate Care Ltd

Heard at: Watford

On: 23 July 2021

Before: Employment Judge Allen sitting alone

Appearances

For the Claimant: In person

For the Respondent: Did not attend nor represented

COVID-19 Statement on behalf of Sir Keith Lindblom, Senior President of Tribunals

"This has been a remote hearing on the papers which was not objected to by the parties. The form of remote hearing was by Video. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The order made is described at the end of these reasons."

RECONSIDERATION OF JUDGMENT In accordance with Rules 70 - 73

1. In accordance with Rule 73 the tribunal, on its own initiative has reconsidered the Rule 21 judgment of 14 November 2020, in this case.
2. The Rule 21 judgment is struck out and the claim is dismissed as the tribunal does not have jurisdiction to hear it.

REASONS

3. The claimant received her final payment from the respondent in early September 2019. She was unable to state the exact date.
4. The claimant should have notified Acas of her claim before the end of 2019. Whilst the exact date is uncertain in any event the claim was not commenced until March 2020. The claimant explained that she tried to reach agreement with her former employer but was unsuccessful. She did not seek advice from the Citizens Advice Bureau until March 2020.

5. The respondent did not attend today's hearing. Attempts were made to contact the respondent using the telephone number set out on form ET3. The call went directly to voicemail and the clerk left a message for the respondent to contact the court immediately. The respondent did not respond.
6. Bearing in mind the manner in which the respondent has conducted these proceedings; namely by stating on form ET3 the claim was not defended. I concluded the respondent does not intend to join the hearing and this matter proceeded in the respondent's absence.
7. This claim was filed with the Employment Tribunal on 9 March 2020; 6 months and 9 days after the effective date of termination.
8. The claim is for holiday pay accrued between 28 April and 30 August 2019 (4 months and 3 days employment).
9. Acas was notified on 7 March 2020 and issued a certificate on 9 March 2020.
10. The claim was filed with the Employment Tribunal on 9 March 2020.
11. On 9 October 2020 the Respondent filed a response in which it stated the claim was not defended (section 6, page 4 ET3).

The law

12. Section 23(2)a Employment Rights Act 1996

“23(2) subject to subsection (4), an [employment tribunal] shall not consider a complaint under this section unless it is presented before the end of the period of three months beginning with-

(a) in the case of a complaint relating to a deduction by the employer, the date of payment of the wages from which the deduction was made, or

(b) N/A.

23(3) N/A

23(4) Where the [employment tribunal] is satisfied that it was not reasonably practicable for a complaint under this section to be presented before the end of the relevant period of three months, the tribunal may consider the complaint if it is presented within such further. As the tribunal considers reasonable.”

13. S18A Employment Tribunals Act 1996

“18A (1) before a person (“the prospective claimant”) presents an application to institute relevant proceedings relating to any matter, the prospective claimant must provide to ACAS prescribed information, in the prescribed manner, about that matter.”

Conclusion

14. In accordance with Rule 73 I reconsider a decision of tribunal namely judgment entered in accordance with Rule 21 on 14 November 2020.

15. I have heard from the claimant as to the reasons for her delay in commencing her claim notifying Acas of her claim in accordance with S18A ETA (below) and S23 ERA (below). I consider I have sufficient information to make a decision without further hearing from the respondent.
16. I am satisfied there are insufficient grounds on which the time limits for bringing a claim could be extended and the tribunal does not have jurisdiction to hear it.

Employment Judge Allen

Date:29th July 2021..

Sent to the parties on: ..20th Aug 2021
THY

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For the Tribunal Office