



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs Victoria Simmons

**Respondent:** Yapton School C/O Kim Huggett

The claimant's application for reconsideration is granted and the claim form is accepted with effect from 14 January 2021.

## **REASONS**

1. The Claimant originally presented her claim on 9 December 2020, but had not included any details about early conciliation via ACAS. The claim was rejected on 13 January 2021 by Employment Judge Cadney.
2. The Claimant re-submitted her claim on 14 January 2021 with an early conciliation number. The Claimant then sent several e-mails chasing the Tribunal as to what was happening with her claim.
3. The claim was referred to Employment Judge Cadney on 1 March 2021, who directed that the claim remained rejected because the Claimant's name on the certificate and the claim form did not match. On 2 March 2021, the Claimant explained that she had mistakenly gave her husband's name to ACAS because he was going to represent her. On 4 March 2021 the Claimant provided an ACAS certificate with her name on it and her e-mail has been treated as an application for reconsideration.
4. The Claimant chased the progress of the claim and it was referred to Employment Judge Bax 21 April 2021. It was not practicable for Employment Judge Cadney to reconsider his decision.
5. Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure 2013 ("the Rules").

6. 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.
7. 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 – ... (c) one which institutes relevant proceedings and is made on a claim form that does not contain wither an early conciliation number or confirmation that one of the early conciliation exemptions applies.. (e) one which institutes relevant proceedings and the name of the claimant on the claim form is not the same the name of the prospective claimant on the early conciliation certificate to which the early conciliation number relates. ... (2) 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-paragraphs (a), [(b), (c) or (d)] of paragraph (1)... (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.
8. 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.
9. The decision to originally reject the claim form was correct, in that no ACAS early conciliation number had been provided.
10. When the Claimant resubmitted her claim, she made an error in relation to the name of the Claimant, in that she put her husband's name, who was going to represent her before the Tribunal. The Claimant and her husband have the same surname and address. The Respondent would be aware of the employees it had at that time or who had been employed shortly before and would have been able to identify the Claimant as the person to whom the dispute related. If the claim was rejected the Claimant would be prevented from pursuing her claim. In the circumstances it would not be in the interests of justice to reject the claim and therefore the decision was wrong, and the claim should have been accepted on 14 January 2021.
11. Even if I was wrong in that decision the claimant rectified the defect on 4 March 2021 and the claim would have been accepted on that date.

Employment Judge J Bax  
Date: 21 April 2021

Judgment sent to Parties: 10 September 2021

FOR THE TRIBUNAL OFFICE