



EMPLOYMENT TRIBUNALS

Claimant: Mrs S Williams
Respondent: Elliott House Limited
Heard on: 26th October 2021
Before: Employment Judge Pritchard

Representation

Claimant: Mr C Jones, Employment Consultant
Respondent: No appearance

JUDGMENT UPON A PRELIMINARY HEARING

This judgment is entered under Rule 21 of the Employment
Tribunals Rules of Procedure 2013

1. The Claimant claim of unfair succeeds.
2. The Claimant race discrimination succeeds.
3. The Claimant's claim for breach of contract (notice pay) succeeds.

REASONS

1. By way of an ET1 claim form presented on 30 April 2020, the Claimant claimed unfair dismissal, race discrimination and notice pay. The ET1 was served on the Respondent at the address shown on the ET1, namely 23, Reculver Road, Herne Bay, Kent CT6 6NA.
2. The Respondent failed to present a response within the applicable time limit and the Claimant applied for judgment under Rule 21.
3. The Tribunal did not issue judgment under Rule 21 but did re-serve the ET1 on the Respondent's registered address at the Lodge Care Home, Lodge Lane, Collier Row, Romford RM5 2ES (which, by the time the Employment Judge ordered re-service, had changed to an address in Manchester).

4. Rule 21 of the Employment Tribunals Rules of Procedure 2013 provides:

Effect of non-presentation or rejection of response, or case not contested

(1) Where on the expiry of the time limit in rule 16 no response has been presented, or any response received has been rejected and no application for a reconsideration is outstanding, or where the respondent has stated that no part of the claim is contested, paragraphs (2) and (3) shall apply.

(2) An Employment Judge shall decide whether on the available material (which may include further information which the parties are required by a Judge to provide), a determination can properly be made of the claim, or part of it. To the extent that a determination can be made, the Judge shall issue a judgment accordingly. Otherwise, a hearing shall be fixed before a Judge alone. Where a Judge has directed that a preliminary issue requires to be determined at a hearing a judgment may be issued by a Judge under this rule after that issue has been determined without a further hearing.

(3) The respondent shall be entitled to notice of any hearings and decisions of the Tribunal but, unless and until an extension of time is granted, shall only be entitled to participate in any hearing to the extent permitted by the Judge.

5. Mr Jones for the Claimant informed me that it was his understanding that the Respondent continued to operate at the care home in Reculver Road.
6. I am satisfied that Rule 15, which requires the Tribunal to send a copy of the claim form to the Respondent, was complied with when it was sent to the Respondent's Reculver Road address. The Respondent has failed to present a response. I make this liability judgment under rule 21 accordingly.
7. A case management order will be issued requiring the Claimant to set out her losses. When that is received by the Tribunal, a Judge will consider the extent to which a determination as to remedy can be made and judgment issued accordingly or whether a hearing should be fixed before a Judge alone.

Note

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Employment Judge Pritchard

Date: 26 October 2021