



EMPLOYMENT TRIBUNALS

Claimant: Mr M Kler

Respondent: Quill Pinpoint Limited

HELD AT: Manchester (by CVP)

ON: 29-30 June 2021
1 September 2021
(in Chambers)

BEFORE: Employment Judge McDonald
Ms M T Dowling
Mr S T Anslow

REPRESENTATION:

Claimant: In person
Respondent: Ms A Smith, Counsel

JUDGMENT having been sent to the parties on 4 October 2021 and written reasons for the preliminary decision recorded at paragraph 11 of the judgment having been requested by the claimant in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

REASONS

1. This is consideration of the issue of whether the claimant has complied with the early conciliation certificate requirements, and also whether his application to the Tribunal should be accepted or rejected under rule 12 of the Tribunal Rules.

The Facts

2. The early conciliation certificate names "Quill", giving the address which the respondent accepts is its correct address (page 3). The claim form names "Quill Software". It is accepted that "Quill Software" is not the correct name of the respondent. That correct name is "Quill Pinpoint Limited". By consent at this hearing we amended the respondent's name to "Quill Pinpoint Limited".

3. For the respondent Ms Smith submitted that there were two issues we needed to consider. The first was whether there was a deficiency in the early conciliation certificate itself because it only used the name “Quill”, and not “Quill Pinpoint Limited”.
4. In terms of the requirement of the early conciliation rules, Her Honour Judge Eady at paragraph 54 in **Mist** stated that the requirement was “not for the precise or full legal title. It seems safe to assume, for example, that a trading name would be sufficient. The requirement is designed to ensure ACAS is provided with sufficient information to be able to make contact with the prospective respondent if the claimant agrees that such an attempt to conciliate should be made”.
5. In this case what the claimant says is that “Quill” was the name by which the respondent effectively advertised itself. “Quill” is one of its registered trademarks and is used liberally on its website. The Tribunal is satisfied that “Quill” is a trading name and registered trademark for the respondent. On that basis and taking into account Her Honour Judge Eady’s words in **Mist**, it does not seem to us that the early conciliation certificate itself is deficient.
6. The second issue raised by Ms Smith was whether or not the claim to the Tribunal should have been rejected in accordance with rule 12(1)(f). In brief, that requires that a Tribunal should refer to a Judge a claim which is one which institutes relevant proceedings and the name of the respondent on the claim form is not the same as the name on the early conciliation certificate. It is accepted in this case that the names on the early conciliation certificate (namely “Quill”) and on the claim form (i.e. “Quill Software”) are different.
7. Rule 12(2)A states that the claim or part of it shall be rejected if the Judge considers the claim is of a kind described in paragraph (f) unless the Judge considers the claimant made a minor error in relation to a name or address and it would not be in the interests of justice to reject the claim.
8. When it comes to relevant authorities on this point Ms Smith referred the Tribunal to the case of **Giny v SNA Transport**. In that case the Employment Appeal Tribunal upheld a Tribunal’s decision to reject a claim where the claimant had named the director of the respondent company on the early conciliation form but had named the company in the claim form itself.
9. The Tribunal referred the parties to the subsequent case of **Chard v Trowbridge Office Cleaning Services Limited**. The Judge in that case in the EAT was referred to the case of **Giny**. In substance what the EAT decided in **Chard** was that the question of what is a minor error is one for the Tribunal to decide. The EAT in **Chard** also said that in reading rule 12(2)A the interests of justice should be taken into account in deciding whether an error was minor. In other words, it is not a two stage test, the first question being whether an error is minor and the second whether it is then in the interests of justice to reject.
10. It is important to see the facts of this case in context. It is accepted by the respondent that it was aware of the ACAS early conciliation and took part in it. It is accepted that the address given for the respondent is correct throughout. This is also a case where the claimant was not actually employed by the respondent, therefore the claimant would not have been in possession of, for example, an

employment contract or payslips or other documentation which would have given the correct legal name.

11. The claimant suggested that in effect the respondent was seeking to gain a windfall by knocking his case out on a technicality.

12. For the respondent, Ms Smith said that the interests of justice required the Tribunal to take into account the fact that there were rules laid down by Parliament which should be abided by.

13. Looking at matters in the round, our starting position is that the difference between “Quill” and “Quill Pinpoint Limited” or “Quill Software” seems to us to be a minor error. That is particularly so if we adopt the approach suggested by **Chard**, which is to look at the interests of justice in this case in deciding whether an error is “minor”. We have already referred to the fact that the respondent has been involved throughout, was involved at the early stages of ACAS conciliation and that, by Ms Smith’s own admission, has suffered no disadvantage by the differences between the claim form name and the early conciliation name.

14. Taking matters in the round, therefore, we take the view that the differences between the name on the early conciliation certificate and the name on the claim form is a minor error and that it is in the interests of justice to allow the claim to proceed.

15. The decision of the Tribunal therefore is that the claim is allowed to proceed on the basis that rule 12(2)A of the Tribunal Rules applies.

Employment Judge McDonald

Date: 19 November 2021

REASONS SENT TO THE PARTIES ON

23 November 2021

FOR THE TRIBUNAL OFFICE

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.