



EMPLOYMENT TRIBUNALS (SCOTLAND)

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Case No: S/4116295/2014

Heard in Glasgow on 24 May 2018

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Employment Judge: Ian McPherson

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Mrs Anne Agnew

Claimant
Represented by:-
Edward McCarron -
Solicitor

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Eventrix Ltd (Dissolve Company)

Respondent
Not Present-
Not Represented

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

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The claimant's application for reconsideration of the Judgment of the Tribunal dated 16 April 2015, as entered in the register and copied to parties on 22 April 2015, and the Written Reasons dated 1 October 2015, is struck out under rule 37 (1)(e) of the Employment Tribunal rules of capital procedure 2013 on the grounds that that application for reconsideration has not been actively pursued by the claimant, and

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REASONS

1. Following ACAS OF EARLY CONCILIATION between 7 October and 7 November 2014, the claimant, acting through her then solicitor, at Ness
5 Gallagher & Co, Solicitors, Wishaw, presented a ET1 claim form complaining of unfair dismissal by the respondent from her job as an exhibition sales executive which ended on 16 September 2014.

2. The claimant's claim was accepted at the Tribunal office, on 23 December
10 2014, and a copy served on the respondent. Thereafter, on 20 January 2015, an ET3 response form was lodged on behalf of the respondents, by a Ms Walker, at just employment law, Glasgow defending the claim brought against the respondents. Or that 23 February 2015, just employment law withdrew from
15 acting on behalf of the respondents, and future correspondence was sent directly to their Managing Director, a Marlene Cunningham the case was subsequently listed for Final Hearing before a employment judge sitting alone in Glasgow, on 16 and 17 April 2015, two days having been set aside for the cases full disposal, including remedy if appropriate. When the case called
20 before employment judge June Cape, on 16 April 2015, for that Final Hearing, the claimant was represented by her solicitor, Mr McCarron, while the respondents were not present and not represented. A email sent to the Glasgow Tribunal office the previous evening, Ms Cunningham, Director, on behalf of Eventrix Ltd, advised that that company was no longer trading and that it would not be appearing to defend the case on 16 and 17 April 2015.
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3. Accordingly, following the Final Hearing held before employment judge Cape, on 16 April 2015, judgment dated 16 April 2015 was entered in the register and copied to parties on 22 April 2015, finding the claimant's complaint of unfair dismissal well founded, and ordering the respondents to pay to the claimant
30 compensation in the total amount of £20,503.56, comprising basic award of £502.56, compensatory award of £18,801.00, and refund of Tribunal fees of £1,200.00.

4. Thereafter, on 1 October 2015, employment judge Shona Simon, president of the Employment Tribunal (Scotland), signed off Written Reasons for that judgment, prepared by employment judge Cape, but issued by the president,
5 under rule 63 of the Employment Tribunal rules and procedure 2013, on account of employment judge Cape's absence.
5. The respondents, Eventrix Ltd, were subsequently dissolved as a Limited company, and so no longer exists. The claimant, through her solicitors at Ness
10 Gallagher & Co, Wishaw, applied to the tribunal, on 3 June 2016, for a review of the Judgment to be granted against Eventrix Scotland, which they advised continued to trade and, they understood, was owned by the same shareholder and run by the same director as Eventrix Ltd, namely a Ms Marlene Cunningham.
- 15 6. On 17 June 2016, judge Simon, as President, declined to issue a certificate of correction under rule 69 of the employment tribunal rules of procedure, changing the identity of the respondents, but she indicated that the claimant application failed to be considered under rule 71 of the employment tribunal
20 rules of procedure 2013, which allow for applications for reconsideration in the interest of justice, and she directed that, in the interests of justice, the claimant's application for reconsideration be intimated to Ventrix Scotland Ltd.
- 25 7. Thereafter, on 25 July 2016, Ms Gallagher and co, solicitors for the claimant, informed the Tribunal that the claimant wished the application for review to be considered under rule 71. Thereafter, on 24 October 2016, employment judge Cape instructed that the case be listed to a reconsideration Hearing. On 8 November 2016, notice of reconsideration hearing was to both parties, assigning Friday, 2 December 2016 for the one-hour hearing before
30 employment judge Cape, at which the judgment of 22 April 2015 might be confirmed, varied or revoked.
8. On 17 January 2017, in the absence of judge Cape on sick leave, judge Simon the President, signed a formal order of the Tribunal confirming, in writing, the

order that was made by employment judge Cape at the hearing that took place on 2 December 2016, when the case was adjourned and sisted on the application of the claimant. Since that sisting of the case, there has been sundry correspondence from the tribunal, on instructions from various judges, including myself, enquiring whether the sist should be recalled, or whether there were any suggestions for further procedure before the Tribunal. The claimant's solicitors requested that the case remain sisted in order that they might carry out further enquires / investigations. The case was thereafter sisted for further, fixed periods of time, and updates requested from the claimant's solicitors.

9. On 23 April 2018, on my instructions, the Tribunal wrote to the claimant's solicitors stating that I was considering striking out the claim on the basis that it had not been actively pursued in terms of rule 37(1)(d), and that if the claimants' solicitor disagreed, he should set out his reasons for disagreeing in writing by 3 May 2018 or tell the tribunal by that date that he wanted the tribunal to fix a hearing so that he could put forward his reasons in person. If nothing was heard from him in that timescale, then he was advised that I would decide whether to strike out the claim, or part of it as the case maybe, on the basis of the information which was otherwise available to the Tribunal.

10. Thereafter, 2 May 2018, Mr McCarron, solicitor at Ness Gallagher & Co, advised the tribunal that he required to withdraw from acting for the claimant due to lack of instructions, and, thereafter, Tribunal wrote to the claimant direct, on 8 May 2018, advising her that I was still considering striking out of her claim, and if she disagreed, she should advise the tribunal by 15 May 2018, which failing I would then decide whether to strike out her claim, or part of it, on the basis of the information then otherwise available to the Tribunal. The claimant has failed to make any response, or reply to that letter from the tribunal dated 8 May 2018, within the period allowed for compliance, and to date, nor has she made any request that the Tribunal should fix a hearing to hear from her in person. Accordingly, I therefore strike out her reconsideration application, but otherwise confirm the terms of the original judgment, without variation.

Employment Judge: Ian McPherson
Date of Judgment: 30 May 2018
Entered in register: 15 June 2018
and copied to parties