



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr Rikki Blake

v

Asda Stores Limited

Heard at: Norwich (by CVP)

On: 28 January 2022

Before: Employment Judge Postle (sitting alone)

Appearances

For the Claimant: Miss Harkin, Friend

For the Respondent: Miss Hand, Counsel

JUDGMENT on APPLICATION for RECONSIDERATION

1. I reconsider and revoke the Judgment dated 28 April 2021, sent to the parties on 4 May 2021.
2. The Respondent's Application for Extension of Time for filing its Response is granted. The Response filed by the Respondent on 7 May 2021 is accepted.

REASONS

1. On 28 April 2021, Judgment was given to the Claimant on his claim in default of any Response having been received on time.
2. By email dated 7 May 2021, the Solicitors instructed by the Respondent applied for Reconsideration of the Judgment on the grounds that the Respondent had never received service of the ET1. Employment Judge Postle was informed that the Office for Service during the pandemic had a skeleton staff and accept it may well have been missed during that period. Although no ET1 has been located.

3. The Judgment having been sent to the parties on 4 May 2021 and the Respondent's Application made on 7 May 2021, it was clearly made very promptly in response to the Judgment.
4. The Respondent also applies for an Extension of Time for filing its Response.
5. By letter dated 16 May 2021, the Claimant, Mr Blake, objected to the Application criticising the Respondent for its inadequacy on failing to identify receipt of the ET1.
6. Rule 70 – 72 of the Employment Tribunal 2013 Rules of Procedure applies. The Judgment may be reconsidered if it is in the interests of justice to do so. We need to apply the overriding objective set out in Rule 2 of those Rules and seek to balance the prejudice to the parties.
7. A late response accompanied by an Application for an Extension of Time is provided for by Rule 20. The exercise of judicial discretion in consideration of such an Application also entails apply the overriding objective and balancing the prejudice to the parties.
8. Clearly the purpose of the Default Judgment Provisions in Rule 21 is to provide justice where a Respondent blatantly and wilfully ignores a claim. It is not to punish inefficiency, error or oversight. If the Judgment were to stand, the Claimant would be entitled to a significant sum of money in compensation for all claims, where the merits of such a claim have not been tested. That is a very significant prejudice to the Respondent. The only prejudice to the Claimant is that he will not receive compensation without his claims being heard in a Full Tribunal.
9. The balance of prejudice favours granting the Applications. It is a proportionate decision and in accordance with the overriding objective to grant both Applications.

Employment Judge Postle

Date: 16/2/2022

Sent to the parties on: 24/2/2022

N Gotecha
For the Tribunal Office