

**EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: S/4113593/2015**

**Employment Judge: Mr R Gall**

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**Mr P Beckley**

**Claimant  
By Written Submissions**

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**Textile Recycling UK Ltd (in Liquidation)**

**Respondent  
Not Present and  
Not Represented**

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**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

The Judgment of the Tribunal is that:-

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- (1) The Judgment striking out the claim, that Judgment being dated, entered In the Register and Copied to Parties on 21 July 2017 is reconsidered by the Tribunal on the application of the claimant. On reconsideration the Judgment of 21 July 2017 is revoked. The claim will proceed.
- (2) The claimant is ordered to provide within 14 days of date of this Judgment information setting out the sums sought in relation to each head of claim and the basis of calculation thereof.

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**REASONS**

1. In this case, a Judgment was issued striking out the claim following upon an absence of communication from the claimant's representative. That Judgment was dated 21 July 2017. The claim was struck out on the basis

that it had not been actively pursued. That was in terms of Rule 37(1)(d) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 ("the Rules").

2. The claim in this case was struck out at an earlier date. That was by Judgment dated 4 August 2016. That strike out was also on the basis of the claim not having been actively pursued.
3. That Judgment of 4 August 2016 was reconsidered and revoked in terms of Judgment dated 12 September 2016 and entered in the Register and Copied to Parties on 13 September 2016.
4. In the lead up to the judgment of 21 July 2017, various letters had been sent to the claimants representative seeking a reply and with a view to progressing the case. No communication was received by the Tribunal from the claimant's representative in reply to these letters.
5. After the case had been struck out by the Judgment of 21 July 2017 the claimant's representative sought reconsideration of that Judgment. An explanation was given as to why there had been no response. This explanation was that it had been wrongly assumed that the case was sisted to enable further investigations to be undertaken with the Insolvency Practitioner and for the claimant to provide more information and documentation enabling a Judgment to be granted in terms of Rule 21.
6. It was explained in this application for reconsideration that there would be extreme prejudice to the claimant if strike out was the outcome in the case. Reconsideration was appropriate, it was said, given this prejudice. It was also explained that the claimant's representative had very limited resources and that there had been a change of address on the part of the representative organisation which may have caused difficulty with the receipt of mail. The representative further confirmed that he was now in a position to obtain "a default Judgment" by providing information on the claim to the Tribunal. It was said that there was no prejudice to the respondents in reconsideration and revocation of the Judgment given that they had not lodged form ET3.

7. I considered carefully the application for reconsideration. I decided, on balance, to grant it. I did have reservations. This was particularly so given the earlier strike out. I have concerns as to the absence of reply to Tribunal correspondence on the part of the claimant's representative. That is far from a satisfactory situation.

8. It seemed to me however that it was appropriate to allow reconsideration and upon reconsideration to revoke the Judgment striking out the claim. I have done this however on the basis of an Order being issued as part of the Judgment that the claimant provide details of the breakdown of the claim and the amounts sought. Those details are to be provided within 14 days of date of issue of this Judgment. That should not be a difficulty given the confirmation from the claimant's representative as part of the application for reconsideration that this information could be provided "now". That statement was made by letter of 4 August 2017.

9. I may say that if the information does not come to hand within the time specified, it may well be that consideration is given to strike out of the claim on the basis potentially of failure actively to pursue it or on the basis of failure to comply with an Order of the Tribunal.

10. If the information is provided it may be that a Rule 21 Judgment can be issued. The Clerk to the Tribunal is however requested to set down a one hour Hearing in relation to this case. If the information does come to hand prior to that, consideration can be given to cancellation of that Hearing if a Rule 21 Judgment is issued. Equally if the information does not come to hand it may be that the Hearing does not proceed due to the claim potentially being struck out.

Employment Judge: Robert Gall  
Date of Judgment: 19 October 2017  
Entered in register: 20 October 2017  
and copied to parties

