

**EMPLOYMENT TRIBUNALS (SCOTLAND)**

Case No: 4100374/2018

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Employment Judge: M A Macleod

10 Mr T McCafferty

Claimant

17 Mitie Property Services (UK) Ltd

Respondent

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**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

The Judgment of the Employment Tribunal is that:

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(1) The respondent's application for reconsideration of the Tribunal's Judgment of 14 March 2018 is granted, on cause shown and unopposed;

(2) The Judgment of 14 March 2018 is hereby revoked; and

(3) The respondent's application for an extension of time within which to present an ET3 response is granted, and the ET3 is accordingly allowed to be received on 12 April 2018.

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**REASONS**

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1. On 14 March 2018, the Tribunal issued a Judgment in favour of the claimant in the absence of a response to the claim by the respondent, and fixed a hearing upon which remedy would be determined in the matter.

2. On 27 March 2018, Mr Piers Chadwick, of KLC Employment Law, acting on behalf of the respondent, submitted an application for reconsideration of the Judgment of 14 March 2018, and an application for an extension of time in which to submit a response.
- 5 3. It was explained on behalf of the respondent that the Notice of Claim in this case, intimating the claim to them, was sent to 8 Monarch Court, in Bristol (the address given in the ET1 and set out in the instance of the Judgment). Mr Chadwick confirmed that the respondent has not occupied that address for a period of 3 years. The claim was redirected (presumably by the then  
10 occupiers of that address) to Mitie Facilities Services Ltd at their Head Office, 1 Harlequin Office Park, Fieldfare, Emersons Green, Bristol, BS16 7FN. An employee there forwarded the claim by email to Claire Hamilton, Human Resources Administrative Team Leader for Mitie Property Services (UK) Ltd in January 2018. It turned out that Ms Hamilton was no longer in  
15 the respondent's employment, and no-one in the Airdrie office was aware that the claimant had presented a claim against the respondent to the Tribunal.
4. Mr Chadwick also confirmed that these details were established on 27 March 2018, the same day upon which his firm was instructed.
- 20 5. He also attached a copy of an ET3 for which he sought an extension of time for lodging.
6. The application was duly intimated to the claimant's agent, Margaret Gribbon, of Quantum Claims. She had been engaged in correspondence with the Tribunal relating to the re-listing of the remedy hearing, which had  
25 been postponed upon her application given the need to ingather more information to set out the claimant's position on remedy.
7. On 29 March 2018, Ms Gribbon emailed the Tribunal to say that in light of the respondent's solicitor's correspondence dated 27 March 2018 including a Rule 70 application, she would refrain from completing the date listing  
30 stencil for the remedy hearing. No objection to the reconsideration and extension applications was submitted on behalf of the claimant.

**Discussion and Decision**

5 8. The respondent's application falls under Rule 70 and the Rules following of the Employment Tribunal Rules of Procedure 2013, in relation to reconsideration, and Rule 20, in relation to the application for an extension of time to lodge the ET3.

9. Under Rule 72, the process to be adopted is set out, wherein if the application has not been refused on initial consideration (as here), the original decision shall be reconsidered at a hearing unless the Employment Judge considers that a hearing is not necessary in the interests of justice.  
10 In that event, the parties shall be given the opportunity to make further written representations.

10. In my judgment, this is not a case where a hearing is necessary in the interests of justice. The parties have had the opportunity to make written representations, though the claimant has not submitted any response to the application. The requirement to make further written representations  
15 appears to me to be unnecessary in this case, in the interests of justice, in light of the full explanation provided by the respondent's solicitor in his application, and the absence of any opposition to the application by the claimant.

20 11. The Tribunal is empowered under Rule 41 to regulate its own procedure and conduct a hearing in the manner it considers fair, having regard to the principles contained in the overriding objective.

12. In light of these provisions, it is my judgment that it is in the interests of justice, and consistent with hearing the case justly under Rule 2 (the  
25 overriding objective) to proceed on the basis of the information provided at this stage. It would not be proportionate, nor would it be efficient or save expense, were a hearing to be convened, or parties required to make further submissions.

13. The reason why I have reached this conclusion is that the respondent has set out an explanation for its failure to respond to the claim, and the claimant has not opposed the respondent's application. There has been no unnecessary delay, and it appears that the respondent has acted as soon as it has become apparent that the claim had been received by them.

14. The explanation given suggests a degree of chaos in the manner in which the matter was handled, but given the size of the respondent's organisation, and the fundamental problem arising given the incorrect address attributed to them on the ET1 (and no fault is ascribed to the claimant or her representative in this matter), it is understandable that such a sequence of events might befall the respondent. It was unfortunate that the papers were sent by email to an individual no longer employed by the organisation, but there is nothing to suggest that that was other than a genuine error made by the person who sent the email.

15. The respondent wishes to defend the claim. The claim is one which includes allegations of discrimination, and therefore bears a degree of gravity.

16. It is therefore my judgment, in all the circumstances, that it is necessary in the interests of justice to grant the respondent's application to reconsider the Judgment of 14 March 2018 for the reasons set out above. As a result, the Judgment of 14 March 2018 is revoked.

17. It follows, then, that the application for an extension of time to present the ET3 is granted. The ET3 is taken to have been received as at the date of this Judgment.

18. It is now appropriate that the case be listed for a Preliminary Hearing for the purposes of case management in order to make progress with the proceedings.

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**Employment Judge: M Macleod**  
**Date of Judgment: 12 April 2018**  
**Entered in register: 23 April 2018**  
**and copied to parties**

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