



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Miss Draper

v

Asda Stores Limited

Heard at: Norwich (by CVP)

On: 29 March 2022

Before: Employment Judge Postle

Appearances

For the Claimant: In person

For the Respondent: Mr Rozycki, Counsel

JUDGMENT on RECONSIDERATION APPLICATION of a DEFAULT JUDGMENT

1. I reconsider and revoke the Judgment given by Employment Judge Ord on 19 October 2021, sent to the parties on 8 November 2021.
2. The Respondent's Application for an extension of time for filing of Response is granted. The Response filed by the Respondent's on 26 October 2021 shall be accepted.

REASONS

1. On 19 October 2021, Employment Judge Ord gave Judgment to the Claimant on her claim in default of a Response having been received in time. By email on 19 October 2021, Solicitors instructed by the Respondent confirmed they are instructed and the first the Respondents were aware of proceedings was the Rule 21 Judgment and had not received service of the ET1.

2. The Judgment was sent to the parties on 19 October 2021 and the Respondents made an Application for Reconsideration of the Judgment on the same day. the Application was therefore made extremely promptly. The Respondent also applies for an extension of time for filing its Response.
3. Rule 70 – 72 of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013 applies. The Judgment may be reconsidered if it is in the interests of justice to do so. In considering whether to reconsider the Judgment, I must apply the overriding objectives set out at Rule 2 and seek to balance the prejudice to the parties.
4. The late Response accompanied by an Application for an extension of time is provided for by Rule 20. The exercise for the judicial discretion in consideration of such an Application also entails applying the overriding objective and balancing the prejudice to the parties.
5. The purpose of a default Judgment under Rule 21 is to provide justice where a Respondent ignores a claim. It is not to punish inefficiency, error or oversight. If the Judgment stands, the Claimant will be entitled to a significant sum of money in compensation for the claim. The merits of which have not been tested. That is a very significant prejudice to the Respondent. The prejudice to the Claimant is that she will not receive compensation without her claims being heard in Tribunal. The balance of prejudice favours granting the Application. It is proportionate and in accordance with the overriding objective to grant both Applications.
6. A separate Case Management Order will accompany this Judgment as a Case Management Hearing followed the Respondent's Application for a Reconsideration Hearing on the same day.

Employment Judge Postle

Date: ...19 April 2022.....

Sent to the parties on:

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For the Tribunal Office