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EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4102635/2022

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Held in chambers in Glasgow on 15 June 2022

Employment Judge Ian McPherson

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Mr Lindsay Buchanan

**Claimant
Represented by:
Mr N Whelan**

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Donaldson Timber Systems Limited

**Respondents
No ET3 response**

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JUDGMENT

Rule 21 of the Employment Tribunal Rules of Procedure 2013

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The judgment of the Employment Tribunal is that the claimant's complaint of unfair dismissal succeeds, and the remedy to which the claimant is entitled will be determined at a final hearing. The remaining complaint of alleged unlawful disability discrimination will be determined at that same hearing.

REASONS

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1. By ET1 claim form presented on 11 May 2022, following ACAS early conciliation between 5 and 10 May 2022, the claimant complains of unfair dismissal by the respondents on 24 February 2022, and he also complains that he had been discriminated against on the grounds of

disability. In the event of success with his claim, the claimant seeks an award of compensation to be made by the Tribunal against the respondents.

5 2. A copy of the claim form setting out the claimant`s complaints was sent to the respondents by the Tribunal on 13 May 2022. Parties were advised that the case was listed for a one-hour telephone conference call Case Management Preliminary Hearing to be held on 6 July 2022 at 09:30am.

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3. In accordance with the terms of **Rule 16 of the Rules to be found in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013** the respondents were required to enter a response within twenty eight days of the date on which a copy of the claim was sent to them by post, but they failed to do so, by the

15 due date of 10 June 2022, or at all.

4. The Employment Judge decided that on the available material a determination could properly be made without a hearing as to the liability of the respondents for the complaint of unfair dismissal.

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5. The remedy to which the claimant is entitled for that successful complaint of unfair dismissal by the respondents will be determined by an Employment Judge at a hearing.

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6. The remaining complaint of alleged unlawful disability discrimination will be determined by an Employment Judge at that same hearing.

7. The Judge orders that the telephone conference call Case Management Preliminary Hearing listed to be held on 6 July 2022 is now cancelled.

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8. Notice of Final Hearing by CVP (time estimate 1 day) will be issued under separate cover. The respondents will be entitled to participate in that Final Hearing only to the extent permitted by an Employment Judge.

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9. The respondents will be sent a copy of any judgments, orders, or notices of hearing. If they now seek to defend the claim, then they should make application to the Tribunal for an extension of time to do so, as per **Rule 20 of the Employment Tribunal Rules of Procedure 2013**.

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10. Meantime, within 14 days of issue of this Judgment to both parties, the claimant's solicitor shall submit to the Tribunal, with copy to the respondents, a detailed schedule of loss for the claimant, together with any supporting documentation, including evidence of mitigation of loss, showing the amount of compensation sought from the respondents, and explaining how that sum has been calculated.

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20 Employment Judge: Ian McPherson
Date of Judgment: 15 June 2022
Entered in register: 17 June 2022
and copied to parties

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