



EMPLOYMENT TRIBUNALS

Claimant
Miss J Lewis

v

Respondent
Barista Lounge Wokingham Limited

Heard at: Bury St Edmunds (in person)

On: 29 June 2022

Before: Employment Judge K J Palmer

Appearances

For the Claimant: In person

For the Respondent: Mr M Boyle (former Director of the respondent now dissolved)

RECONSIDERATION OF A JUDGMENT GIVEN ON THE 16 JULY 2021

1. This matter came before me as a reconsideration of a judgment I gave on the 16 July 2021.
2. There is something of a history of this matter.
3. The claim came before me as a full merits hearing conducted by Cloud Video Platform on the 16 July 2021. The claimant attended but there was no attendance from the respondent or any representative of the respondent. At that time, I had very little paperwork before me and did not have the file. I was not aware that originally the claimant had presented a claim against Mr Mark Boyle personally. I now have the file in front of me and I can see that the original claim for unpaid wages was presented to the Watford Tribunal on the 2 July 2020.
4. Having reviewed the file Employment Judge McNeill caused a letter to be written to the claimant requesting whether the claimant wished to change the name of the respondent to Barista Lounge Wokingham Limited. The respondent then filed an ET3 on behalf of Barista Lounge Wokingham Limited. It is not clear from the file whether the claimant ever responded to the letter from Employment Judge McNeill dated the 10 August 2020 but by June 2021 the Tribunal file had been amended to reflect the respondent as being Barista Lounge Wokingham Limited. So, that when the matter came

before me without a file Barista Lounge Wokingham Limited was the respondent.

5. In the absence of anyone representing the respondent at that hearing and having heard from the claimant who did attend I gave judgment for the claimant.
6. Pursuant to that Mr Boyle then requested written reasons and applied for a reconsideration which caused me to consider it was appropriate and necessary for there to be a hearing and that is the hearing before me today. The history and sequence of events is set out in my notice of postponement and re-listing of the 8 March 2022 and I will not repeat that here.
7. Safe to say that the hearing today is for a reconsideration of that judgment.
8. In my notice of postponement and re-listing I gave various orders to be complied with in terms of production of documents. It must be remembered that at the time I sat on this originally in July 2021 I had little or no documents in front of me. I expressed how unsatisfactory that was in my judgment on that day.
9. It now emerges, having seen documentation filed for this reconsideration hearing, that in fact Barista Lounge Wokingham Limited was no longer a legal entity at the time I gave judgment on the 16 July 2021.
10. In a witness statement provided by Mark Boyle for these proceedings he confirmed that the company had been dissolved on the 17 November 2020, some five months after the claimant had presented her claim and some eight months prior to my giving judgment.
11. I have myself caused a search to be made of the records and have confirmed that Barista Lounge Wokingham Limited was in fact dissolved on the 17 November 2020. The respondent is therefore no longer a legal entity.
12. As a matter of law, a claim in the Employment Tribunal cannot be pursued against an entity that does not exist.

Who employed the claimant

13. It is clear therefore that if it was Barista Lounge Wokingham Limited the respondent that employed the claimant then the judgment on the 16 July 2021 was given against an entity that did not exist and must be revoked and the claim cannot proceed against Barista Lounge Wokingham Limited. The only potential solace for the claimant here is if she was not employed by Barista Lounge Wokingham Limited and was indeed employed by Mark Boyle as she indicated in her original ET1.
14. It is that question, therefore, that I sought to consider today. Having read the witness statements and questioned the parties in front of me I am very

satisfied that in fact the claimant was employed by the respondent which is now the dissolved company. The reason I conclude that is that I had before me a contract of employment given to the claimant which albeit was unsigned indicated the claimant's employer as Barista Lounge and records were shown to me indicating that where payments were made to the claimant for salary, they were made from a company account of Barista Lounge Wokingham Limited. I understand from Mr Boyle that it was the company that owned and ran the business and that pursuant to financial difficulties presumably not helped by the corona virus pandemic the business failed and the company was dissolved as a result.

15. I understand from Mr Boyle that in fact he has another barista lounge operated under a separate company which he has had for some time and the respondent in these proceedings was a second business which he opened which for various reasons failed to succeed.
16. Even the claimant herself accepts that she was employed by the respondent Barista Lounge Wokingham Limited.
17. Accordingly, I must conclude therefore that these proceedings should not have proceeded against the respondent beyond the date of dissolution which was the 17 November 2020 and that therefore the judgment on the 16 July 2021 should not have been given albeit at the time I had no knowledge that the company was dissolved.
18. Accordingly, I revoke the judgment and make an order these proceedings cannot currently proceed against the dissolved company.
19. The proceedings are therefore stayed until such time, if ever, the company is re-registered.

Employment Judge K J Palmer

Date: 15 August 2022

Sent to the parties on:

17 August 2022

For the Tribunal: