



EMPLOYMENT TRIBUNALS

Claimant: Mrs E Bowles
Respondent: Tempest Rentals (Stickney) Ltd
Heard at: In Chambers
On: 5 September 2022
Before: Employment Judge Broughton (Sitting Alone)

JUDGMENT

The Respondent's application for reconsideration is granted and the Judgment sent to the parties on 9 May 2022 made pursuant to Rule 21 is revoked.

REASONS

BACKGROUND

1. On 9 May 2022 Employment Judge Adkinson issued a Judgment for both liability and remedy ("The Judgment") made pursuant to Rule 21 on the grounds that the Respondent had failed to enter a response to the claim.
2. The claim was presented on 19 January 2022 and served at an address at 9 Cresswell Close, Spalding, Lincolnshire. No response was received and Employment Judge Adkinson determined the claim on the papers pursuant to Rule 21.
3. The Respondent contacted the Tribunal on 27 July 2022 complaining that the Respondent had only received papers pertaining to the claimant direct from the Claimant on 26 July 2022 and that the claim had been served on the wrong address. The Claimant provided her comments, which were in essence that she had included in the claim form the address for the Respondent which appears on the HMRC portal.
4. Representatives for the Respondent wrote on the 17 August 2022 clarifying that the Respondent was applying for the judgement to be set aside and the claim re-served.
5. Neither party sought a hearing to determine the application.
6. It is apparent from Companies House that the Respondent's registered

office had changed and that the claim had been served on the old registered office address.

7. As Employment Judge Adkinson was on leave and I therefore in his absence, determined the application.

THE LAW

8. The procedure and basis for applications for Reconsideration is provided for by Rules 70 to 73 Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013. Under the provisions of Rule 70, a Judgment will only be reconsidered where it is 'necessary in the interests of justice to do so' and a Tribunal dealing with the question of Reconsideration must seek to give effect to the overriding objective to deal with cases 'fairly and justly'.
9. A Tribunal should also be guided by the common law principles of natural justice and fairness when dealing with applications of this kind.
10. The wording 'necessary in the interests of justice' in Rule 70 allows Employment Tribunals a broad discretion to determine whether Reconsideration of a judgment is appropriate in the circumstances.
11. This discretion must be exercised having regard not only to the interests of the party seeking the review or Reconsideration, but also to the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation (see **Outsight VB Ltd v Brown 2015 ICR D11, EAT**).

CONCLUSIONS

12. The Judgment was issued because the Respondent did not enter a response. However, the Respondent's position is that it never received the claim form and I am satisfied that the claim was served at an old registered office address. Accordingly, the Respondent did not receive the claim and was not in a position to respond to it. It is therefore in the interests of justice to revoke the Judgment and for the claim to be re-served.

Employment Judge Broughton

Date 5 September 2022

JUDGMENT SENT TO THE PARTIES ON

Date 10 September 2022

FOR THE TRIBUNAL OFFICE

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