EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4109679/2021

Employment Judge P O'Donnell

5 **Mr P Bonini**   **Claimant**
                                                                                        In Person

10 **John Clark Motor Group**   **Respondent**
                                                                                        Represented by:
                                                                                        Mr P Singh -
                                                                                        Solicitor

JUDGEMENT OF THE EMPLOYMENT TRIBUNAL

The judgement of the Employment Tribunal is that the Respondent's application for reconsideration is granted and the Judgement dated 1 July 2021 (sent to the parties

20 on 2 July 2021) made under Rule 21 is hereby revoked.

REASONS

1.   The Claimant had brought the same claims in two sets of proceedings, 4109679/2021 and 4109859/2021.

2.   No ET3 was lodged for case 4109679/2021 due to the fact that the

25   Respondent did not receive details for this particular set of proceedings. As a result, a judgement was issued under Rule 21 in those proceedings. An application for reconsideration of this judgement was made on 14 July 2021.

3.   An ET3 resisting case 4109859/2021 was lodged in those proceedings and it, therefore, cannot be said that the Respondent had failed to defend the claim

30   at all. It is quite clear that the Respondent intends to defend the claims being brought by the Claimant in these identical proceedings.

4.   The Tribunal is satisfied that, if they had been aware of them, the Respondent would have responded to the proceedings under case 4109679/2021 given

that they had done so in the proceedings 4109859/2021. The failure to lodge an ET3 in 4109679/2021 is, therefore, in the nature of technical failure rather than a complete failure to defend the claim when both sets of proceedings are considered as a whole.

5. It would not be in the interests of justice for the Claimant to receive a potential windfall arising from a technical failure in circumstances where the Respondent sought to defend the claim. The Respondent's application for reconsideration is hereby granted and the judgement dated 1 July 2021 in respect of case number 4109679/2021 is revoked.

Employment Judge: **P O'Donnell**
Date of Judgment: **11 October 2022**
Entered in register: **12 October 2022**
and copied to parties