



EMPLOYMENT TRIBUNALS

Claimant: Mr S Lawrence

Respondent: Muffinpug Rescue (A registered charity)

JUDGMENT ON RECONSIDERATION

Heard at: Watford

On: 28 April 2023

Before: Employment Judge R Lewis

Appearances

For the claimant: In person

For the respondent: Written submissions only

JUDGMENT

1. The respondent's application for reconsideration of the Judgment of 5 July 2021 is refused.

REASONS

1. This was the hearing of the respondent's application for reconsideration of a Rule 21 Judgment of 5 July 2021.
2. I apologise to both parties for the inordinate delay in listing this hearing, which was partly due to office error, and partly to my own mistake. I apologise also that during this hearing the CVP video links failed.
3. The claim was presented on 15 January 2021. Day A had been 4 December 2020, and Day B was 15 January. The tribunal served the claim at an address in Northwich CW8 on 19 January 2021. The ET3 was due on 16 February 2021, and not received.
4. The file was referred to me in accordance with Rule 21, and on 5 July 2021 I issued judgment for the sums claimed. That was for notice pay in the sum of £2561.61 and holiday pay of £1280.86.

5. On 29 July 2021 the respondent applied for reconsideration. Its application said that it not had notice of this claim. The tribunal replied (more than once) to say that the application would be considered on receipt of a completed Form ET3. Although the respondent has written that that was sent on 2 February 2022, there is no record of receipt on that date, and the respondent has not sent a copy of its covering letter or email.
6. The respondent did submit Form ET3 and its reply on 7 November 2022. It was of course significantly out of time. It was silent on the claim for holiday pay. It replied to the claim for notice pay by asserting that the claimant had been employed for a fixed term, and that therefore no notice was necessary or due to the claimant.
7. Notice of today's hearing was sent on 9 February 2023.
8. On 8 April 2023 the respondent wrote to the tribunal to say that it would not attend this hearing. It referred to difficulties experienced by the respondent. I noted online an announcement by the Charity Commission to the effect that it was investigating the accounts prepared by the NB previous trustee(s).
9. During this hearing I adjourned briefly so that the claimant could email me a copy of his contract of employment. I noted that it was plainly drafted by or with the help of a professional adviser. Specifically, I noted: (1) that it contained a 'whole agreement' provision; (2) that it included an entitlement to payment in lieu of all untaken holiday on termination of employment; and (3) that it was not a fixed term contract: it said nothing whatsoever about duration or termination date. It contained a notice requirement of one month.
10. The claim had been properly served at the respondent's then correct correspondence address. There was no evidence to displace the presumption in favour of good service.
11. The respondent has not shown good cause for its delay in replying to the ET1 or in submitting the ET3.
12. I find that the rule 21 judgment was properly issued.
13. The respondent has not shown any error in the judgment on holiday pay, such as to give rise to an interest of justice in setting aside that part of the judgment.
14. The claimant's written contract contradicts the respondent's assertion that he was employed for a fixed term. He was not. Therefore there is no interest of justice in setting aside the award of notice pay.
15. The application for reconsideration is refused, and the Judgment stands.

Employment Judge R Lewis

28.4.2023

Sent to the parties on:

29.4.2023

For the Tribunal:

GDJ