



EMPLOYMENT TRIBUNALS

Claimant: Ms Charlize Simmons

Respondent: Mr Panayiotis Andreou Chimonides t/a Cutthroat Kings Barbers

UPON APPLICATION made by the Respondent's solicitor by email dated 30 March 2023 to reconsider the judgment dated 24 March 2023 (sent to the parties on 28 March 2023), under rule 71 of the Employment Tribunals Rules of Procedure 2013, and without a hearing,

JUDGMENT FOLLOWING RECONSIDERATION

1. The judgment of the Employment Tribunal dated 24 March 2023 is set aside on the basis that the Respondent did not know about the hearing.
2. A new hearing is listed for one day at the East London Hearing Centre on Thursday 28 September 2023 and directions in respect of preparation for that hearing will be sent out to the parties shortly.

REASONS

1. The liability and remedy hearing in respect of the Claimant's claim for unfair dismissal and unlawful deductions from wages contrary to the Employment Rights Act 1996 preceded in the absence of the Respondent on Friday 24 March 2023. At this hearing, the Claimant was present remotely by way of a CVP hearing. The Respondent was neither present nor represented. After waiting for 15 minutes for the Respondent to attend, the hearing went ahead in the absence of the Respondent and a judgment for £1,700 was made in favour of the Claimant and sent to the parties on 28 March 2023.
2. The Respondent applied in writing by e-mail dated 30 March 2023 by way of its solicitor submitting that the Respondent had not received any notification of the hearing and was caught completely unaware. It was asserted that neither the Respondent nor the Solicitor on record had received any documents from the Claimant which would have prompted them to realise there was a forthcoming hearing. The Tribunal office had informed the Respondent's solicitor after the hearing on 24 March 2023 that the notice of hearing had been posted to the Respondent on 11 November 2022. The Respondent's solicitor submitted that this correspondence had not been received (and still had not been received) and he highlighted further that the posting of the notice of hearing was during the industrial action that had been taking place by Royal Mail. In particular mail had not been delivered at all for 6 weeks and many items had still not arrived.

3. The Claimant was given an opportunity to respond to the Respondent's application for a reconsideration of the judgment and did so by e-mail received by the Tribunal on 12 April 2023. In her response, she outlined that she had been in attendance on 24 March at the remote hearing which preceded after a 15-minute wait at 10:15 a.m. She confirmed that the Respondent did not attend at that hearing. She stated that she received notification of the hearing herself and was surprised that the Respondent did not receive such notification. She submitted that she had provided the Respondent with all documentation necessary for the hearing and that the Respondent was using multiple avenues to avoid liability in this case.

4. The Tribunal gave both parties an opportunity to provide representations as to whether this reconsideration application could take place in writing without the need for a hearing. Neither party objected to the application being considered in writing nor did they request an oral hearing. Accordingly, I decided the application on the basis of the written representations made by the parties referenced above.

5. I find that on the balance of probability that the Respondent did not receive the notification of hearing and directions from the Tribunal in this case and was unaware that to the hearing on 24 March 2023 had been listed to determine the Claimant's claims. I am satisfied that this was likely due to the fact that there was industrial action by the Royal Mail when the notification had been sent to the Respondent and/or his solicitor. Accordingly, it is in the interests of justice for the Respondent to be able to present his defence to the Claimant's claims. I am satisfied that in this case there is a procedural irregularity and that the Claimant will not suffer any prejudice if the Respondent is permitted to defend her claims. Conversely, if the Respondent is not permitted to defend the claims, he will suffer a great deal of prejudice due to a procedural irregularity. I have accordingly allowed the application for a reconsideration and set aside the judgement reached on 24 March 2023 in favour of the Claimant. I have given separate directions for the preparation of a fully contested hearing so that both parties can be ready to proceed with that hearing.

6. The fully contested hearing will take place at the East London Hearing Centre on **Thursday 28 September 2023** at the **East London Hearing Centre, Second Floor, Import House, 2 Clove Crescent, London, E14 2BE**. The hearing will start at 10 am. The parties must be in attendance at the Tribunal office by no later than 9:30.

Employment Judge Hallen
Date: 16 May 2023