



EMPLOYMENT TRIBUNALS

Claimant: Mr R Bourke

Respondent: (1) The Secretary of State for Business and Trade
(2) Internal Solutions Ltd (In Liquidation)

Heard at: London South on the papers

On: 23 May 2023

RECONSIDERATION JUDGMENT

1. The Judgment dated 08 March 2023 be set aside.
2. The matter be listed for a one-day preliminary hearing on the first open date after 29 June 2023. The Tribunal will determine the Claimant's employment status at this hearing.
3. The matter not to be listed before Employment Judge D Wright.

REASONS

4. The matter was heard by CVP on 08 March 2023. The First Respondent did not attend, having not received the notice of hearing. Other parties did attend, although it would appear that the first anyone knew of the matter was the day before when CVP joining details were emailed over.
5. At the time of the hearing, I was provided with a copy of the papers which included an ET1 and an ET3 from the Second Respondent.
6. I was not provided with a copy of the First Respondent's ET3, nor is there any record of such on the electronic Judicial Case Management System as of today's date. For all appearances therefore the First Respondent was therefore under Rule 21 restrictions and would not be permitted to speak at the hearing in any event. I therefore proceeded with the hearing in the First Respondent's absence.

7. However, it has now transpired that the First Respondent had filed an ET3, and they have provided evidence to me that the Tribunal accepted this ET3 and sent a copy to the Claimant, although I have still not seen a copy of the ET3 itself.
8. This information was not before me at the hearing, nor was it brought to my attention by the Claimant during the hearing when I explained that the First Respondent had not filed a response to the claim.
9. Therefore, I find that it is in the interests of justice to set aside the judgment and to list the matter for a preliminary hearing to determine the employment status of the Claimant. It would appear from EJ V Wright's letter in October 2022 that this is a preliminary matter remaining to be dealt with.
10. Having already heard evidence and made determinations in a one-sided hearing I find that it would be appropriate to recuse myself from hearing any further matters in the case.

Employment Judge **D Wright**

Date: 23 May 2023