



EMPLOYMENT TRIBUNALS

Claimant: Sophie Theakston

Respondent: Pool & Spa Manufacturing Limited (in compulsory liquidation)

Heard: by Cloud Video Platform on 19 March 2025

Before: Employment Judge Ayre

Representation

Claimant: In person

Respondent: Did not appear and was not represented.

Sara Didcott, in house counsel, appeared on behalf of the former respondent One Pool & Spa Limited

RECONSIDERATION JUDGMENT

The judgment of the Tribunal is that:

1. The claimant was not employed by One Pool & Spa Limited, company number 12607128, and that company is removed as a respondent to these proceedings.
2. The proceedings are stayed because the respondent is in compulsory liquidation.

REASONS

Background

3. The claimant was employed by the respondent, latterly as a Sales and Marketing Manager from 5 July 2023 until 30 March 2024. She began ACAS early conciliation on 16 April 2024 and ACAS issued the Certificate on 28 May 2024. The claimant issued her claim on 1 June 2024. The claim form includes complaints of unfair dismissal, for notice pay of £3,333.33 (one month) and for holiday pay of £799.92 (4.8 days).
4. In a Judgment sent to the parties on 27 January 2025 the claimant's claim of unfair dismissal was struck out because the claimant was employed by the

respondent for less than two years.

5. The name and address of the respondent in the Early Conciliation Certificate is One Pool & Spa Ltd of The Old Dairy, Weston Road, Bristol, BS8 3US. On the claim form the respondent is identified as One Pool and Spa LTD of The Old Dairy, Ashton Hill Farm, Weston Road, Failand, Bristol, BS8 3US.
6. The claim was served on One Pool & Spa Ltd with a deadline for filing a response of 9 October 2024.
7. On 4 October 2024 a response was filed by a Sara Didcott of UKS Group. The response stated that the claimant had filed the claim against the wrong company, and that the claimant had been employed by Pool & Spa Manufacturing Ltd. Attached to the response was a copy of a contract of employment between the claimant and a company described as "One Pool & Spa" of Units 2-4 Borwick Drive, Grovehill, Beverley, HU17 0HQ with company number 14446259.
8. A search of the Companies House website reveals the existence of a company called One Pool & Spa Limited, whose registered office is The Old Dairy, Ashton Hill Farm, Weston Road, Failand, Bristol, BS8 3US, with company number 12607128, and the existence of another company called Pool & Spa Manufacturing Limited, with the same registered office and with company number 14446259.
9. Pool & Spa Manufacturing Limited was added as a respondent to the proceedings and Employment Judge Brain directed that the identity of the claimant's employer would be decided by the Tribunal

The hearing

10. The case was listed for a final hearing today. I heard evidence under oath from the claimant. Both parties submitted documents to the Tribunal, which I have considered.
11. The first issue for consideration today was whether the claimant was employed by One Pool & Spa Limited (company number 12607128) or Pool & Spa Manufacturing Limited (company number 14446259).
12. During the course of the hearing it became apparent that Pool & Spa Manufacturing Limited is now in compulsory liquidation.
13. At the end of the hearing I delivered judgment orally. I indicated that the parties would also get the judgment in writing, and that in the case of any discrepancy between the oral reasons and the written reasons, it is the written reasons that take precedence.
14. During my oral judgment I indicated that I found for the claimant in relation to her complaints of holiday pay and for notice pay and ordered the respondent to pay certain sums to the claimant in respect of both notice pay and holiday pay.

Findings of fact

15. The claimant was provided with a contract of employment which identified her employer as "One Pool & Spa". The contract contained a company number, 14446259, but did not contain the registered name or the registered office of the employer.
16. The claimant was issued with a new contract of employment, which she signed on 11 September 2023. That contract also named "One Pool & Spa" as the employer and contained the company number, 14446259, but did not contain the registered name or the registered office of the employer.
17. Company number 14446259 was incorporated on 27 October 2022. It had the following names:
 - a. Mosaic Spa and One Pool Limited (27 October 2022 to 9 February 2023);
 - b. One Pool & Spa Ltd (9 February 2023 to 15 September 2023);
 - c. One Pool and Spa Manufacturing Ltd (15 September 2023 to 2 February 2024); and
 - d. Pool & Spa Manufacturing Ltd from 2 February 2024 onwards.
18. The claimant accepted in her evidence that the company that employed her was company number 14446259.
19. Pool & Spa Manufacturing Ltd is now in compulsory liquidation, a winding up petition having been presented on 11 December 2024. R Dury, Official Receiver and Liquidator, of Apex Court, City Link, Nottingham, NG2 4LA is recorded on Companies House as having filed the winding-up order.

Reconsideration

20. Following the conclusion of today's hearing, I checked the provisions of section 130(2) of the Insolvency Act 1986, in light of the fact that the respondent is now in compulsory liquidation.
21. Those provisions state clearly that proceedings against a company which is in compulsory liquidation must be stayed and can only be continued with the permission of the court.
22. Rule 68 of The Employment Tribunal Procedure Rules 2024 provides that the Tribunal may, on its own initiative, reconsider any judgment where it is necessary in the interests of justice to do so. Where a judgment is reconsidered it may be confirmed, varied or revoked.
23. I have reconsidered the judgment delivered orally at the hearing today. It would not be in the interests of justice for that judgment to stand, given that the respondent is in compulsory liquidation and given also the prohibition on proceedings against companies in compulsory liquidation without the permission

of the court.

24. The judgment delivered orally at the hearing today is therefore reconsidered of the Tribunal's own volition and is varied. It is replaced with the judgment set out above, which removes one respondent and stays the proceedings against the remaining respondent.

Conclusions

25. The claimant accepted in evidence that she was employed by company number 14446259, which had the company name One Pool & Spa Ltd from 9 February 2023 until 15 September 2023 and which, since 15 September 2023, has been known as Pool and Spa Manufacturing Ltd.

26. That is the company number which is on the claimant's contract of employment. The company now known as One Pool & Spa Ltd was not the claimant's employer and is removed from the proceedings.

27. As the respondent is now in compulsory liquidation, the proceedings must be stayed pursuant to section 130(2) of the Insolvency Act 1986 which provides that:

"When a winding-up order has been made or a provisional liquidator has been appointed, no action or proceeding shall be proceeded with or commenced against the company or its property, except by leave of the court and subject to such terms as the court may impose."

28. The proceedings are therefore stayed.

Employment Judge Ayre

Date: 19 March 2025

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE

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oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

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