



EMPLOYMENT TRIBUNALS

Claimant: Mr. P. Hooper

Respondent: Gestamp Tallent LTD

Before: Employment Judge T.R. Smith

RECONSIDERATION JUDGMENT, RULE 68 EMPLOYMENT TRIBUNAL RULES OF PROCEDURE 2024

1. The judgements of 18 December 2024 and 25 February 2025 are revoked.
2. Pursuant to rule 70 (5) either party has 14 days from the date of this judgement to make any further representations.

Reasons

The respondent having failed to file its response within the requisite time resulted in Employment Judge Sweeney issuing a judgement on 18 December 2024, and sent to the parties on 08 January 2025 (the liability judgement) upholding the claimant's complaint of unfair dismissal

The claim then came before Employment Judge Gowland on 25 February 2025 (the remedy judgement). He assessed compensation in favour of the claimant with the judgement being issued on 28 March 2025.

The respondent thereafter applied for the judgements to be reconsidered (although the word “set aside” was used) and submitted a draft response.

Employment Judge T.R.Smith determined, having heard the parties on 14 January 2026 that the respondent was given permission to pursue a reconsideration application out of time and that it could not be said there was no reasonable prospect of the judgements being revoked.

The grounds of the application was simple. The claimant ,the respondent asserted did not have two years continuous service as an employee with it as at the effective date of termination and as such the tribunal lacked jurisdiction.

Employment Judge T.R.Smith sought the views of the parties as to whether the matter could be determined without a hearing and gave the opportunity for written representations to be made. The parties agreed the matter could be determined without a hearing and made representations.

In summary the result of those representations were that the claimant had worked at the respondent's premises for in excess of two years but initially the claimant worked for an agency who supplied the services to be respondent. It was common ground that the claimant's employment under a contract of employment with the respondent was for less than two years.

The claimant urged the tribunal to aggregate his agency working with that of his substantive working.

The claimant relied on section 218 of the Employment Rights Act 1996. That however only relates to employment by one employer (see section 218 (1).

The tribunal had before it documentation between the agency and the respondent and was satisfied that there was a genuine commercial relationship between the two parties and that they were independent bodies.

In the circumstances therefore the liability judgement cannot stand because the tribunal did not have jurisdiction and as the liability judgement cannot stand the remedy judgement must also fall away.

Employment Judge Smith

Date signed 12 June 2026

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