

**IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION**

7 Rolls Buildings
Fetter Lane
London

Before MASTER DAVISON

IN THE MATTER OF

CLANCY (Claimant)

- v -

MINISTRY OF DEFENCE (Defendant)

**THE CLAIMANT appeared in person
MR G MALLET appeared on behalf of the Defendant**

**JUDGMENT
4 DECEMBER 2024
(APPROVED)**

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MASTER DAVISON:

1. Dealing with your application for default judgment and the defendant's cross-application for relief against sanctions, I am afraid I will not enter default judgment. Indeed, I cannot now enter default judgment because an acknowledgment of service has been filed, albeit late. The rules provide that if an acknowledgment of service has been filed as at the date that the application for default judgment is considered I am not permitted to enter default judgment. However, even if the MOD had not filed an acknowledgment of service and was simply asking for an extension of time to do so, I would grant that extension, that is to say, I would give relief from sanctions.
2. I acknowledge that failing to respond to your claim was a serious breach, but there was, apparently, a good reason for it, and that is that the correspondence enclosing the proceedings was not actually received by the Government Legal Department. There appears to have been some kind of mix-up or miscommunication in the process for screening mail and, for whatever reason, the correspondence did not actually reach the Government Legal Department itself. That is a good reason why I should give relief against sanctions.
3. However, I would go on and say that even if there was not a good reason, looking at all the circumstances of the case, I would still give relief against sanctions because it appears to me that your claim is vulnerable to being struck out because it is at least the fourth claim of the same type against this defendant. For that reason, it would also appear that the MOD would have a defence in the form of what is called *res judicata*, that is to say what you are asking for has already been decided.
4. Lastly, it would appear that the Ministry of Defence would have a good limitation defence because you have known about your diagnosis since 2012, and the rules provide that you have three years to issue proceedings and that three-year period has been very considerably exceeded.
5. Therefore, it would not be just or proportionate for me to enter default judgment in your favour and I will not do that.
6. However, I will say that the MOD are to pay your costs of the application, which I will say should be the subject of a detailed assessment because you are a litigant in person and you have not provided a schedule of costs, which is understandable. Therefore, that will have to be assessed on another day.
7. I will extend the time for the Ministry of Defence to enter a defence. However, I will say that they must, within that period of time, provide a full explanation as to why the decision of the Upper Tribunal backdating your pension payments for PTSD to 2007 has

apparently not been actioned because I am very concerned about that. It seems to me that you are entitled to have your arrears of pension paid to you. You are entitled to be paid your pension at the correct rate and you are suffering ongoing loss because of that, and I would like to see that situation resolved as soon as possible.
