



EMPLOYMENT TRIBUNALS

Claimant: Ms C Forster

Respondent: Lorraine Mark trading as the Highway Day Nursery

Heard at: via CVP **On:** Tuesday 13th July 2021

Before: Employment Judge **A Frazer**

Appearances

For the Claimant: Mr T Kenward (Counsel)

For the Respondent: Ms S Younis (Litigation Consultant)

JUDGMENT

1. Upon the Respondent's application for relief from sanction being granted, the Unless Order of EJ Brace dated 22nd February 2021 and the Notice dismissing the response dated 13th July 2021 is set aside.
2. The Respondent's representative's conduct of the litigation leading up to the date of the final hearing in February 2021 and in failing to comply with the direction of REJ Davies dated 11th January 2021 was unreasonable pursuant to rule 76(1)(a) of the Employment Tribunal's Rules of Procedure.
3. There shall be no strike out of the response under Rule 76.
4. Costs fall to be payable on the basis that the hearing did not go ahead on 22nd February owing to the respondent's representative's non-compliance with the Unless Order which necessitated a postponement of the final hearing and the listing of a day's preliminary hearing for the Tribunal to determine whether there had been any material non-compliance.
5. The Respondent (or in this case its representatives) shall pay to the Claimant the sum of **£3, 720** within 28 days.

Employment Judge A Frazer
Dated: 14th July 2021

SENT TO THE PARTIES ON 23 July 202

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FOR THE SECRETARY OF EMPLOYMENT
TRIBUNALS Mr N Roche