



EMPLOYMENT TRIBUNALS

Claimant: Mr. B. Osholake
Respondent: EAM-R Maintenance Expert Ltd
Heard at: East London Hearing Centre (CVP)
On: 22 July 2024
Before: Employment Judge Misra K.C.

Representation

Claimant: in person assisted by his relative Ms Diane Osholake
Respondent: Mr. Christian Ocloo (Peninsula Business Service Ltd)

JUDGMENT

1. The Respondent's application under Rule 20 for an extension of time to present a response is granted to the date of its presentation and the Respondent is permitted to participate in the proceedings.
2. The Final Hearing listed for one hour on 22 July 2024 is adjourned to 1 November 2024 for a three-hour listing (start time to be confirmed).

REASONS

1. The Claimant is not legally represented and had misunderstood the directions given by the Tribunal when the hearing was listed for 22 July 2024 and had not therefore prepared, filed or served any documents setting out the sums claimed or otherwise complied with the directions. As a result, it was unclear what the Claimant was claiming and he did not have any documentary evidence available for the Tribunal to consider. One hour was plainly an insufficient amount of time to determine the claim fairly and consistently with the overriding objective. There were no witness statements, documents, any basic schedule loss or other material which the Tribunal could have dealt with on a pragmatic basis to avoid adjourning.
2. The Judge decided to grant an extension of time to the Respondent having considered the outstanding application on paper, having regard to the Claimant's measured and limited objection at the hearing (no written objection having been made by the Claimant before), the overriding

objective and relevant case law on rule 20 applications and to allow it to participate in the proceedings. Further, the Tribunal directed the Claimant to further particularise his case which was not clear from his claim and made case management directions (made by consent of the parties) as set out in a **separate Order** to ensure the case is ready for an effective hearing on the next occasion. The Judge noted the Respondent's representatives' prompt correspondence and that the sole director and owner of the Respondent had died on 11 February 2024 creating difficulties in obtaining instructions. That difficulty has not entirely resolved but enquiries are being made as to who the director's executors are and it will be for the Tribunal to consider any further applications which may be made on their own terms and merits. A draft ET3 was provided promptly and would have needed amendment in any event following the particularisation of the Claimant's complaints, and permission has been given to the Respondent to do so. It was in the interests of justice for both sides to understand each other's case and be able to address them effectively at the final hearing.

3. The Respondent had not realised that the start time for the hearing had been changed by the Tribunal (from 10am to 12 noon) and had logged on at 10am intending to participate and make applications. The Respondent's representative joined the video hearing almost at its end, after it had started 30 minutes later than its scheduled start time, further time having been allowed for enquiries to be made of the Respondent and its attendance (or not). The reason for the non-attendance at the start of the hearing was explicable in all the circumstances and the Respondent in fact agreed with all of the decisions and orders determined upon by the Judge after they were explained to him, having already been discussed and explained to the Claimant and his aunt.
4. The issues of fact and questions of jurisdiction (time limits) appear to be sufficiently complex to warrant a somewhat longer hearing of 3 hours which will allow the Judge at the Final Hearing a reasonable time in which to consider evidence and submissions and to reach a judgment on liability and remedy.
5. It was proportionate to use the time available on 22 July 2024 to provide some case management directions to get the case ready for a fair hearing and to allow the parties a further opportunity to resolve their dispute through negotiation as they had previously indicated to the Tribunal that they were close to agreement.

Employment Judge Misra KC
Dated: 22 July 2024