

ROYAL COURT

30th July, 1987

Before: The Deputy Bailiff and
Jurats Le Boutillier and Bonn

BETWEEN

R.J. Wilkinson Ltd

PLAINTIFF

AND

A. Chilvers

DEFENDANT

On the 24th April, 1987, the Court, at the request of the defendant, placed on the pending list the action brought by the plaintiff against the defendant for payment of the sum of £2,275.17.

On the 5th June, 1987, the time limited by Rule 6/7(3) of the Royal Court Rules, 1982, as amended, for filing an answer having expired, the Court, on the application of the plaintiff by virtue of Rule 6/7(5) of the said Rules, gave judgment in favour of the plaintiff.

On the 30th July, 1987, the Court, for the reasons set out in the judgment below, refused the application of the defendant, under Rule 8/3 of the said Rules, that the judgment of the 5th June, 1987, be set aside.

Advocate S.C.K. Pallot for the plaintiff
Advocate B.A.C. Yandell for the defendant

JUDGMENT

DEPUTY BAILIFF: The Court accepts the submission of Mr Pallot. A judgment under Rule 6/7(5) of the Royal Court Rules, 1982, (as amended), is not a judgment by default, but a judgment on the ground that no answer has been filed, as stated in the Act of Court dated the 5th June, 1987.

A judgment by default is one where no appearance has been entered; Rules 5/18 and 5/19 of the above Rules support that interpretation.

The judgment in Spira -v- Spira (1939) 3 All ER 924 C.A., is of persuasive authority in the circumstances of this case.

Accordingly, the summons is struck out; the defendant will pay the taxed costs of the plaintiff.

Authority (referred to in Judgment)

Spira -v- Spira (1939) 3 All ER 924 C.A.