

Appeal No. UKEAT/0168/20/JOJ

EMPLOYMENT APPEAL TRIBUNAL
ROLLS BUILDING, 7 ROLLS BUILDINGS, FETTER LANE, LONDON, EC4A 1NL

At the Tribunal
On 8 July 2021

Before

THE HONOURABLE MR JUSTICE BOURNE

(SITTING ALONE)

MRS V TCACI

APPELLANT

STACEY EMPLOYMENT SERVICES LTD

RESPONDENT

Transcript of Proceedings

JUDGMENT

APPEARANCES

For the Appellant

MRS V TCACI
(The Appellant in Person)

For the Respondent

The Respondent being neither
present nor represented

SUMMARY

PRACTICE AND PROCEDURE

JURISDICTIONAL/TIME POINTS

The Claimant's claim for unpaid wages was rejected by the Employment Tribunal on the ground that no ACAS Early Conciliation number was given in section 2 of her Claim Form.

Held (allowing the appeal) that that decision must have been made in error because in fact the correct Early Conciliation number did appear in the Claim Form.

A THE HONOURABLE MR JUSTICE BOURNE

1. This is an appeal against a decision of Employment Judge Lewis, which was contained in a letter dated 3rd February 2020, rejecting the Claimant's Claim Form.

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2. The Respondent is an employment agency for whom the Claimant used to work. She claimed that she was not paid a sum of £2,000 which the Respondent owed her. I make no comment on the merits of her Claim, which are not relevant for today's purposes.

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3. The Respondent company is now in liquidation. The liquidators have informed this Tribunal that they will not be participating in these proceedings, at present they are without funds and they anticipate that there will be no funds for distribution to any creditors in the liquidation. It is, of course, for the Claimant to take legal advice on her position. Again, I make no comment.

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4. The employment judge decided that the Claimant's Claim could be rejected because no ACAS Early Conciliation number was given in section 2 of her Claim Form. This reflects Rule 10 (1) (c) (i) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, which requires that the reference number be included in the form.

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5. I have been shown the Claim Form in the present case. In section 2.3 the Claimant did fill in an ACAS Early Conciliation number: R128902/19/02. I have also been shown an ACAS Early Conciliation certificate which does, indeed, bear that number. It therefore seems clear that the employment judge's decision was an error. I do not know whether some other type of decision was intended, but clearly the decision letter of 3rd February 2020 cannot stand.

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A 6. The Appeal, therefore, is allowed and the Claim will be remitted to the Employment Tribunal for a lawful decision to be made on the Claim Form.

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