

Presidential Guidance – Rule 21 Judgment

The Guidance is issued on the Fourth day of December 2013 under the provisions of Rule 7 of the first schedule to Employment Tribunals (Constitution and Rules of Procedure) Regulation 2013 (“the Rules”).

Note:

Whilst the Tribunals in England and Wales must have regard to such Guidance they will not be bound by it.

Background:

1. Rule 21 of the Rules provides that where the time limit provided for under Rule 16 has expired and no response has been presented or any response received has been rejected, and no application for a reconsideration is outstanding or where the Respondent has stated that no part of the claim is contested, then an Employment Judge will consider whether on the available material, a determination can properly be made of the claim or part of it, issue a Judgment and make detailed provisions to that effect.
2. In applying the provisions of that Rule the procedure that will normally apply is as set out below.

Action by Parties:

1. Unless there are exceptional circumstances no action is required nor provided for by the Rules.
2. If there are exceptional circumstances then the party who believes such to exist must notify the Tribunal in writing immediately.
3. It is of benefit for all concerned for documentation sent to the Tribunal which will be considered by the Employment Judge, and in particular the claim form and any response form submitted, to provide sufficient detail for appropriate consideration to be made by an Employment Judge in accordance with this Rule.

Action by the Employment Judge:

1. The Employment Judge will review all the material that is then available. This will normally consist of the claim form and any response form that has been validly submitted and any other supplementary documents.
2. They will consider whether the matter requires more information. If so, they will cause a letter to be written to the party/ies specifying the further information that is required.
3. If no such information is required, or once such information has been received then the Employment Judge will consider whether it is appropriate to:-

- a. issue a Judgment in full for all claims and remedy; or
 - b. issue a Judgment in full for all liability issues and hold a hearing for remedy or request further details of remedy matters; or
 - c. issue a Judgment in part for one or more of the items claimed, together with any remedy issues arising; or
 - d. issue a Judgment in part for one or more of the items claimed but not remedy issues and hold a hearing for remedy or request further details of remedy matters; or
 - e. consider any of the combinations of Judgment for liability matters or remedy matters which they consider appropriate on the facts available to them at the time of consideration; and
 - f. arrange for a hearing to be held for any part of the claim that has not had a judgment issued or for any remedy matters remaining outstanding as a result of such judgment having been issued and make appropriate case management orders.
4. If such a hearing is to be held then the Respondent will be entitled to receive notice
 - a. of any hearings and decisions but entitlement to participate in the hearing will be limited as provided by Rule 21(3); and
 - b. the hearing that will be held ordinarily will be a hearing as provided for under Rule 57.
 5. If a judgment is issued it will be copied to all parties as soon as possible thereafter and notice sent of any hearing if an Employment Judge has considered it appropriate for such a hearing to take place.
 6. Judgment will be issued as provided for under paragraph 3 above where an Employment Judge is satisfied that they have sufficient information properly so do to. For example, an Employment Judge will examine whether the claim is clearly stated and whether there are any matters which might affect whether the Tribunal has jurisdiction to hear the claim. The Employment Judge will consider all detail contained in the written matters before them; consider any obligation or burden on either of the parties in relation to proving such matters; the calculations that have been provided (if any) by the claimant; any case management orders that have previously been made; and any response. If the Employment Judge has any reasonable doubt as to the whole or any part of such matters contained in the claim then the claim will be listed for hearing. The provisions of Rules 57-59 will apply.
 7. Any party who wish to ask for reconsideration of such a decision must make such application in accordance with the provision of Rules 70-72.

8. Any party who considers lodging an appeal against such a judgment must comply with the Rules of the Employment Appeal Tribunal.

4th December 2013

A handwritten signature in black ink that reads "David Latham". The signature is written in a cursive style with a large initial 'D' and 'L'.

David J Latham
President