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EMPLOYMENT TRIBUNALS (SCOTLAND)

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Case No: 1803582/2019

Held in Dundee on 20 December 2019

Employment Judge I McFatridge

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Mr C Tosh

**Claimant
In person**

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J M Hall Couriers Ltd

**Respondent
No representation**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

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The Judgment of the Tribunal is that the application for an extension of time to submit the ET3 response form succeeds. The ET3 form submitted by the respondent on 3 November 2019 shall be accepted. A further hearing shall be fixed in due course in order to determine the issues between the parties.

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REASONS

Introduction

1. The claimant submitted a claim to the Tribunal in which he claimed that he had been unfairly dismissed by the respondent. He also claimed various monetary amounts which he considered he was due following the E.T. Z4 (WR)

5 termination of his employment. The respondent did not submit a response during the statutory period. During this period however information came to light to the effect that the respondent had moved to East Leeds Airport, Church Fenton, Tadcaster LS24 9SE. The claim form was re-served on them at that address. The respondent did not submit a response during the initial statutory period but on 27 November 2019 the Tribunal received an e-mail from the respondent in which they indicated that they had completed the online Tribunal ET3 on 3 November but following telephone conversations with the Tribunal office they understood the Tribunal office did not have any note of this. They were able to forward a copy of the response which had been submitted. They made a request that the response be accepted late. On 4 December 2019 the Tribunal wrote to both parties asking if they wished to make any representations regarding the issue of whether or not to accept the ET3 late. No response was received from either party.

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2. The matter was referred to me today. It would appear from the terms of the respondent's e-mail that they did complete an online form on or about 3 November which would have been within the appropriate time limit. It would appear that this has gone astray. In my view the balance of prejudice in this case clearly favours the respondent. The ET3 they have submitted contains averments which, if proved to be factually correct, would amount to a defence to all or part of the claim. If the response is not accepted late then the respondent may face requiring to pay substantial compensation in circumstances where they would not be legally liable to do this. It is clearly in the interests of justice for an extension of time to be granted for the response form to be lodged.

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35 **Employment Judge:**
Date of Judgment:
Date sent to parties:

Ian McFatridge
27 December 2019
27 December 2019

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