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EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4111420/2019

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Preliminary Hearing held in Dundee on 6 December 2019

Employment Judge I McFatridge

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Mrs L Muir

**Claimant
Not present or
represented**

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Nicola Thomson

**Respondent
Not present or
represented - no
ET3 lodged**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The judgment of the Tribunal is that the respondent shall pay to the claimant a redundancy payment of One Thousand, Five Hundred and Sixty Six Pounds (£1566).

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REASONS

1. The claimant submitted a claim to the Tribunal in which she claimed a redundancy payment following the termination of her employment with the respondent. On the claim form she indicated that her employment had

commenced on 26 March 2015 and had ended on 27 April 2019. The claimant was over the age of 41 during the whole of this period. The respondent did not submit a response within the statutory period. A preliminary hearing was fixed for the purpose of determining whether the claim had been lodged outwith the time limit and if not whether a redundancy payment was due and if so, how much. At the time and place fixed for the hearing there was no appearance by either the claimant or the respondent.

2. Rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 Schedule 1 states

“If a party fails to attend or to be represented at the hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it shall consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party’s absence.”

In this case I arranged for the clerk to telephone the claimant on the number which the Tribunal had available. The call went to voicemail. I decided to proceed with the hearing in the absence of the parties since it appeared to me that I could make a decision based on the information available to me.

3. On the issue of time bar, whilst I agreed that the claimant had submitted her ET1 claim form outwith the time limit of three months which is applicable to claims for things such as payment of wages and unfair dismissal the time limit for claiming a redundancy payment is different.

4. The Tribunal’s jurisdiction to hear claims relating to a redundancy payment is conferred by section 163 of the Employment Rights Act 1996 and in terms of section 164 the time limit which applies is six months beginning with the relevant date. In this case the relevant date was 27 April 2019. The claim was submitted within six months of that date. In any event, the six month period would have been extended in terms of the early conciliation rules by 16 days to take account of the period of time during which the claim was with ACAS. It therefore appeared to me to be absolutely clear that the claim had been submitted in time and the Tribunal

had jurisdiction to hear it. There was sufficient information on the face of the claim form to enable me to make a decision in the matter. The claimant is entitled to a redundancy payment of six weeks' pay at the weekly rate of £261. This amounts to £1566.

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

Ian McFatridge
13 December 2019
13 December 2019

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