

EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: S/4102613/16

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Held in Glasgow on 7 March 2017

Employment Judge: Ian McPherson (in chambers)

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Mr Charles Gillan

Claimant

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1. OTW Services Ltd

1st Respondents

2. Scottish Water

2nd Respondents

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

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The judgment of the Tribunal is as follows:-

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(1) Having considered the claimant's application dated 21 February 2017, requesting that the Tribunal's judgment dated 16 February 2017, entered in the register and copied to parties on 20 February 2017, striking out his claim under **Rule 37 of the Employment Tribunals Rules of Procedure 2013**, be reconsidered, and there being no objection to that application by either respondent, and no party having requested a Hearing, the Tribunal, acting under its powers under **Rules 70, 71 and 72**, reconsiders the Strike Out judgment dated 16 February 2017; and

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(2) Having done so, the Tribunal **revokes** that judgment, and **re-instates** the claim to be heard along with the other two conjoined claims at the Final Hearing assigned for **Monday, 24 April 2017, and 4 ensuing days**, as previously ordered by the Tribunal on 27 January 2017.

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REASONS

5 1. On 16 February 2017, I made a judgment Striking Out this claim, for the reasons more fully detailed in the Reasons then given in my judgment, on the basis of (a) the claimant's non compliance with an Order of the Tribunal, dated 31 January 2017, in terms of **Rule 37(1) c)**; and (b) that the claim had not been actively pursued, in terms of **Rule 37(1) (d)**.

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2. On 21 February 2017, the claimant, having received his copy of that Strike Out judgment, issued by the Tribunal to all parties on 20 February 2017, he wrote to the Tribunal, by e-mail, requesting the Tribunal's judgment issued on 20 February 2017, striking out his claim under **Rule 37**, be reconsidered.

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3. The application for reconsideration was referred to me, on 23 February 2017, and I did not refuse it on initial consideration. I ordered that the respondents be asked to provide any response to the application by no later than 4.00pm on Thursday, 2 March 2017, and, by that date, all parties were invited to express a view as to whether the application could be determined without a Hearing.

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4. As per the Tribunal's letter of 23 February 2017, issued to all parties on my instructions, parties were advised that I had expressed a provisional view on the application, and that I was minded to grant the reconsideration, and revoke the Judgment dated 16 February 2017, on the basis that the claimant's e-mail of 21 February 2017 states clearly and unequivocally that the claimant intends to pursue his claim to the Final Hearing. That Final Hearing has already been assigned for 5 days commencing Monday, 24 April 2017.

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5. Having today considered, in chambers, correspondence of 23 February 2017, received from the solicitor for the second respondents, there being no further correspondence received from the claimant, nor from the first respondents' representative, by 4.00pm on 2 March 2017, or at all, and there accordingly

being no objection to the reconsideration application by either respondent, and no party having requested a Hearing, I have dealt with this unopposed application in chambers, and granted it, acting under my powers under **Rules 70, 71 and 72.**

- 5 6. Mr Gillan's claim will now proceed, along with those of the combined claims by George Coutts and Gary Thomson, to the previously assigned Final Hearing next month.

Employment Judge: Mr GI McPherson

10 Date of Judgment: 07 March 2017
Entered in register: 07 March 2017
and copied to parties

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