

[4] Evidence in support of the application is to the effect that the error was unintentional and prompted by a genuine miscalculation, the problem being catalysed by other pressures.

[5] It is also the case that the advocate for the defendant was understandably away during part of January, and that even if the challenge had been issued within time, it may not have been possible for service to take place until late January 2016. Indeed the representative for the defendant has confirmed to the Court that it does not oppose the application made by the plaintiff. I conclude that there is no prejudice to the defendant.

[6] The election is in respect of part only of the determination, relating to the issue as to whether the employee's retainer was underpaid. It is alleged that the calculation made by the Authority was not undertaken correctly, and that it accordingly erred in rejecting the employee's claim. I find that the claim is tenable.

[7] Given the period of short delay involved, the inadvertence of the applicant's representative, and the proposed grounds for raising the challenge, I conclude that leave should be granted.

[8] The plaintiff is to file his statement of claim within seven days of the date of this judgment. The relevant filing fee has been paid. Service of the statement of claim will need to take place thereafter in accordance with the Employment Court Regulations 2000.

[9] Since an indulgence has been granted, I make no order as to costs.

B A Corkill
Judge

Judgment signed at 11.15 pm on 4 February 2016