



EMPLOYMENT TRIBUNALS

Claimant **Mr L Shaheed Hussain**

Respondent: **William Morrison Supermarkets Plc**

JUDGMENT

The Claimant's application dated 6 March 2018 for reconsideration of the judgment sent to the parties on 22 November 2017 is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because:

1. Following the Claimant's non-attendance at the preliminary hearing listed on 2 June 2017, his claim was struck out on the basis that it was not being actively pursued. Although the Claimant's representatives then sought a reconsideration of this decision (letter dated 22 June 2017), when the Tribunal sought an explanation of the Claimant's non-attendance at the preliminary hearing, no further information was provided, and so the application went no further. The Claimant then purported to withdraw his claims before the Tribunal (letter dated 31 July 2017 from his representatives) – even though the claims had already been struck out – and pursuant to that, the claims were dismissed on withdrawal on 13 October 2017.
2. The Respondent then made a renewed application for costs – on 1 November 2017 and repeated on 19 December 2017 – copied to the Claimant. The Respondent's application to the Tribunal was sent to the Claimant's representatives. The Claimant and his representatives did not object to the application or communicate further with the Tribunal, although given the opportunity to do so. Then, a costs judgment was issued on 22 February 2018.
3. The status of the Claimant's representatives as a not for profit charity is not relevant. The costs order was not made against them, but against the Claimant.

4. The notice of hearing for 2 June 2017 was apparently forwarded to the Claimant, as his representatives do not have the funding to cover representation in the Tribunal. However, no explanation of why the Claimant failed to attend the preliminary hearing has been given. His representatives surmise that he was unaware of the requirement to attend, but the notice of hearing is clear. It states – “please ensure that you attend so that the discussion can start on time”.
5. While it is said that the Claimant’s income is based on state benefits and his capital is zero, the fact is that the costs award claimed and made was modest. Just £325 plus VAT, to cover counsel’s fees only, and not the solicitor’s costs of preparation. No doubt, the Respondent will reach an arrangement with the Claimant for staged payments to be made of this costs order.
6. The Claimant’s conduct of the proceedings – in failing to notify the Respondent that he was not going to attend the hearing on 2 June 2017 or pursue his claim (evidenced by the fact that he later purported to withdraw it) – was unreasonable. The costs order was properly made.

Employment Judge G P Sigsworth

Date: 12 / 4 / 2018

JUDGMENT SENT TO THE PARTIES ON

.....

.....
FOR THE TRIBUNAL OFFICE