



EMPLOYMENT TRIBUNALS

Claimant: N Waite

Respondent: Forester Life Ltd

Heard at: Bristol **On:** 04 September 2018

Before: EJ Housego

Representation

Claimant: Did not appear and was not represented

Respondent: Mr A Midgely of Counsel, instructed by Clarkson Wright and Jakes, solicitors.

RESERVED JUDGMENT

The application for a reconsideration is refused.

REASONS

1. At a hearing on 09 February 2018 conducted by me, all but one of the claims were struck out, and a deposit order in the sum of £250 made in respect of the remaining claim. A full ex tempore decision was given. The decision with the deposit order was promulgated in 26 February 2018.
2. No deposit was paid, and on 19 April 2018 I signed a judgment striking out the remaining claim, sent to the parties on 25 April 2018.
3. A copy of the email attaching the judgment and cover letter is also on the Tribunal file, dated and timed 26 February 2018 at 15:23. The Tribunal file also contains a notification from postmaster@justice.gsi.gov.uk dated 26 February 2018 at 15:23 confirming that the judgment was sent to the claimant's email address and to the respondent's representative's email address. That to Judith Curran was received.

4. The decision to strike out the claim by reason of the non payment of the deposit was posted to the claimant's address on 25 April 2018.
5. On 09 May 2018 the claimant wrote by email to the Tribunal. He said that he had never received an order requiring him to pay. He stated that he considered the hearing a sham, and that inadequate consideration had been given to his health problems.
6. On 21 May 2018 the Tribunal replied seeking clarification of what the claimant was seeking, and inviting him to apply for a reconsideration if that was his wish.
7. On 04 June 2018 the claimant telephoned the Tribunal and on the same day copies of the judgment and deposit order were sent to him by email (to the same email address as above). The claimant was requested to specify how he wished to receive communication from the Tribunal in future.
8. On 05 June 2018 the claimant emailed the Tribunal and said that he had instructed that he was not to be emailed, and that was why he had not got the judgment. He requested a retrial and a reconsideration.
9. On 12 June 2018 the Tribunal wrote to the claimant at the address above (by post) stating that a hearing for reconsideration would be listed and asking for dates when the claimant was available between July and December 2018. He was told that he would need to explain why he had not paid the deposit when he was told orally at the hearing that it was a requirement.
10. On 22 June 2018 the claimant emailed the Tribunal, said that he was presently very ill, but would be available for a hearing from 01 September 2018 to 05 December 2018.
11. On 27 June 2018 notice of this hearing was given by post and by email to the addresses above.
12. On 03 September 2018 at 11:27 the claimant emailed the Tribunal to ask for an adjournment of the hearing. He stated that he had been diagnosed with another brain tumour. He asked for the hearing to be adjourned to March

2019. After enquiry from the Tribunal as to evidence, he emailed an appointment letter from University College Hospital Cancer Centre dated 16 July 2018 for an appointment on 02 August 2018. It was addressed to the address above, Field House.

13. Regional Employment Judge Pirani refused that application and the claimant was emailed to that effect on 03 September 2018 at 15:25. The reasons were that there was no medical evidence provided and no explanation as to why the application was made so late.

14. At 16:42 on 03 September 2018 the claimant emailed a letter dated 23 August 2018 from that hospital to a GP. The salient parts of it appear to be:

“So in conclusion the meningioma is not new, it is very small and there has only been very slow growth since 2016... Surgery for this is neither necessary nor advisable at the moment... We would recommend ongoing surveillance with a view to gamma knife radiosurgery at the appropriate point in time. The plan therefore is that we will see him back here in six months with up-to-date imaging.”

15. The claimant did not attend the hearing. The respondent was represented by Counsel.

16. I decided to proceed with the hearing. There is no medical evidence that the claimant is unable to participate. There is no explanation for the delay in making the application for an adjournment. The medical evidence provided very late on indicates that there is no medical action proposed imminently. It indicates that nothing has changed recently. It gives no indication as to symptoms.

17. There is nothing on the file indicating that the claimant has ever stated that he does not wish to be contacted by email, and he only ever communicates with the Tribunal by email, not by post. The email address used by the Tribunal is always the same, and it is the address by which the claimant emails the Tribunal. The claimant has responded to emails sent to him in reply to emails he has sent to the Tribunal.

18. The file records that the email with the judgment and the deposit order was received at the correct email address.

19. In any event I gave a full extempore decision at the hearing on 09 February 2018. I explained to the claimant very clearly that I was striking out all his claims save one, and that I was ordering him to pay a deposit of £250 as a condition of being able too carry on with that remaining claim. I gave him full reasons why I had come to those decisions. The judgment and order sent to him are in those terms. At the hearing the claimant gave every indication of understanding exactly what I had decided and why. Had he not received a judgment he made no effort to find out what he was to do. I told him at the hearing that he had 28 days to pay the £250. He knew that was the requirement when he left the Tribunal on 09 February 2018.
20. The claimant was sent (by post) the judgment striking out the remainder of the claim, to the correct address. While at the hearing on 09 February 2018 he indicated that he might not be living at that address the whole time, he has never given another address, and the letters from the hospital are to that address.
21. There is no evidence of any medical reason why the claimant was unable to respond and he asserts none, saying that he did not receive either judgment. I do not accept that that is likely. Even if not, he has made no application for reconsideration of the original judgment made on 09 February 2018, at the hearing, until 09 May 2018.
22. The grounds for reconsideration are set out in the email of 09 May 2018. This asserts that the hearing was “*a sham*” and that “*there was a mistrial as there was no consideration given to my health*”. This amounts to no more than to disagree with the outcome.
23. I note that the claimant has not attempted to pay the deposit ordered.
24. The grounds for reconsideration are only those set out in Rule 70, namely that it is necessary in the interests of justice to do so. It is not in the interests of justice to reconsider these decisions.
25. I decline to review or reconsider either the decisions to strike out the claims made on 09 February 2018, and the deposit order made on that date, or the decision to strike out the remaining claim. There are no grounds put forward on which I might do so, and no evidence to support such an application.

Employment Judge Housego

Date 04 September 2018