



# **EMPLOYMENT TRIBUNALS**

**Claimant:** Mr A Hussain

**Respondent:** Convergys Intelligent Contact Limited

## **JUDGMENT**

The claimant's application for reconsideration of the judgment sent to the parties on 18 May 2018 is refused.

## **REASONS**

1. Rule 70 of the Employment Tribunal Rules of Procedure 2013 provides that a tribunal may, on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so. Applications for reconsideration must be made in accordance with Rule 71.
2. Rule 72 requires that an employment judge must consider any application under Rule 71. If the judge considers that there is no reasonable prospect of the original decision being varied or revoked, the application must be refused.

3. At a hearing on 16 April 2018 I determined the question of whether the tribunal has jurisdiction to consider the claimant's claim. His complaint of unfair dismissal had been presented after the expiry of the statutory time limit. Having heard evidence from Mr Hussain, I decided that it was reasonably practicable for him to have presented his claim before the time limit expired. I announced the judgement at the hearing.
4. This claim was one of a number of similar claims which have been ordered to be heard together. One of the other claimants is Mr Steele, who represents himself and nobody else. During the course of the hearing, Mr Steele interrupted to say that this claimant had been on medication after he was dismissed. The claimant was unable to provide any evidence of such medication. I indicated that if he did supply evidence after the hearing, I would consider whether it raised a reasonable prospect of altering the judgement.
5. On 27 April 2018, before the written judgement was sent to the parties, the claimant sent two documents to the tribunal. The first was a duplicate general practitioner fit note stating that he was unfit to work for 4 weeks in late 2017. The second is a retrospective general practitioner letter, recording that the claimant saw his doctor on 27 November 2017, was prescribed Sertraline and a review date was set for 4 weeks' time.
6. I recently became aware of these documents when the claimant telephoned the tribunal to enquire about the progress of his case. It appeared to me that the claimant was seeking a reconsideration of the judgment and I gave it preliminary consideration under Rule 72.
7. Having taken these further documents into account, my conclusion is that there is no reasonable prospect of my revoking my earlier judgment. I would still find that it was reasonably practicable for the claimant to have presented his claim within the time limit. My reasons are as follows:
  - 7.1 The new documents do not show that the claimant was too unwell to concentrate on submitting his claim. His oral evidence at the hearing suggests the contrary: he was able to correspond with solicitors, make contact with ACAS and research the need for early conciliation on the internet.
  - 7.2 The new documents do not say that the claimant was unwell for the whole period to 30 January 2018.
  - 7.3 I asked the claimant to tell me in his own words why he did not present the claim by 30 January 2018. He mentioned his caring responsibilities and delays in hearing from his solicitors, but he did not mention his own health at all until Mr Steele prompted him. This suggests to me that the claimant's health was not a particularly significant barrier.
  - 7.4 There is no suggestion in the new documents that there was any improvement in his health following the expiry of the time limit on 30 January 2018. Two weeks after that date, he was able to present his

claim online. He told me that it took him about 5 to 10 minutes. If he was well enough to do this on 14 February 2018, the chances are that he was well enough to do it before 30 January 2018.

8. Finally, I apologise to Mr Hussain for the delay between his submission of these documents and my having issued the reconsideration judgment.

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Employment Judge Horne

23 October 2018

SENT TO THE PARTIES ON

2 November 2018

FOR THE TRIBUNAL OFFICE