



EMPLOYMENT TRIBUNALS

Claimant 3 : Mr Michael Lindsell

Respondent: Quest Corporation Ltd

Heard at: Exeter **On:** 25 January 2019

Before: Employment Judge Housego

Representation

Claimant: Written application

Respondent: None

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The Judgment of the Tribunal is that:

- 1. The 3rd claimant's application for reconsideration is granted.**
- 2. The decision to dismiss the claim of the 3rd claimant is revoked.**
- 3. The 3rd claimant's claim is to be relisted for a 1 hour hearing.**
- 4. For the avoidance of doubt this does not affect the Judgments in favour of the 1st and 2nd claimants.**

REASONS

1. The claimant has applied for a reconsideration of the judgment dated 26 November 2018 which was sent to the parties on 11 December 2018 (“the Judgment”). The grounds are set out in his email of 14 December 2018 to the Tribunal office.
2. Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure 2013 (“the Rules”). Under Rule 71 an application for reconsideration under Rule 70 must be made within 14 days of the date on which the decision (or, if later, the written reasons) were sent to the parties. The application was therefore received within the relevant time limit.
3. 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.
4. The grounds relied upon by the claimant are that the hearing venue and date was changed at short notice. He received notice of the hearing only on the day it took place.
5. The Tribunal file records attempts to contact the 3rd claimant by telephone to tell him of the change. It records that these were unsuccessful. It also records that the Tribunal asked the 1st and 2nd claimants to try to advise the 3rd claimant of the hearing. At the hearing I enquired of them whether they had told the 3rd claimant of the hearing. They said that they had not been in touch with him since leaving their employment with the respondent.
6. I am satisfied that it is likely that the 3rd claimant did not receive notice of the changed time and place of the hearing in time to attend it.
7. The relevant provision of the Rules is:

“72.—(1) An Employment Judge shall consider any application made under rule 71. If the Judge considers that there is no reasonable prospect of the original decision being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application shall be refused and the Tribunal shall inform the parties of the refusal. Otherwise the Tribunal shall send a notice to the parties setting a time limit for any response to the application by the other parties and seeking the views of the parties on whether the application can be determined without a hearing. The notice may set out the Judge’s provisional views on the application.

(2) If the application has not been refused under paragraph (1), the original decision shall be reconsidered at a hearing unless the

Employment Judge considers, having regard to any response to the notice provided under paragraph (1), that a hearing is not necessary in the interests of justice. If the reconsideration proceeds without a hearing the parties shall be given a reasonable opportunity to make further written representations.”

8. I do not consider that a hearing is required. The email has been sent to the respondent, on [date] asking for a response within 7 days. No response was received. The respondent did not attend the hearing on 26 November 2018, and its managing director stated that they would not be doing so.
9. Accordingly the interests of justice require that I revoke the dismissal of his claim (under paragraphs 70-72 of the Rules.
10. The claim of the 3rd claimant will be relisted for a 1 hour hearing notification details will be sent in due course.

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Employment Judge Housego

Dated: 25 January 2019