



THE EMPLOYMENT TRIBUNALS

Claimant: Mrs E Jones
Respondent: Mr Bruce Crabbe

JUDGMENT ON RECONSIDERATION

The respondent's application for reconsideration of the judgment sent to the parties on 15 October 2018 is refused.

REASONS

1. In the letter from the Tribunal dated 19 November 2018 the respondent was invited (if that was his wish) to submit an application that a reconsideration of the judgment in this case be undertaken. He was informed that if that was his wish he must write to this Tribunal to that effect by return. The respondent did not write to the Tribunal by return or even fairly promptly thereafter. Instead he wrote by e-mail dated 2 December 2018, which was received by the Tribunal the following day; some two weeks after the date of the Tribunal's letter.
2. In that e-mail of 2 December from the respondent, he does not address the fundamental point of whether he wishes to apply that a reconsideration of the judgment in this case be undertaken. That is obviously surprising. Nevertheless, given that the respondent is a litigant in person, I have accepted his e-mail of 2 December as being such an application for a reconsideration of the judgment.
3. Rule 70 of the Employment Tribunals Rules of Procedure 2013 provides that a judgment may be reconsidered "where it is necessary in the interests of justice to do so." I have taken into account the following matters in determining whether it is, indeed, necessary in the interests of justice to reconsider the judgment:
 - a. The respondent has confirmed that he received from the Employment Tribunal the letter comprising a Notice of Claim dated 5 September 2018; further that he has received a copy of the claim form that the claimant submitted to the Employment Tribunal in August 2018. That letter from the Tribunal dated 5 September 2018 was clear in stating, "If a respondent wishes to defend the claim their response must be received at the Tribunal office by 03/10/2018. If a response is not received by that date.....a

judgment may be issued.....”. That same letter also informed the parties that the claim would be heard on Thursday 1 November 2018. Notwithstanding this clear information, the respondent did not submit a response before that deadline of 3 October 2018 or indeed at any time thereafter. Hence the judgment of 9 October 2018 in respect of the claimant’s claim.

- b. The respondent has stated that he attended the Employment Tribunal on 24 October 2018 because he had been notified that the hearing would take place on that date. His representations to that effect are not understood. There is nothing on the Tribunal’s file to support any suggestion that the respondent was notified of a hearing on 24 October 2018. To the contrary, as set out above, he was informed in the letter from the Tribunal of 5 September 2018 (which he has confirmed he received) that the hearing would take place on 1 November 2018.
 - c. The judgment of 9 October 2018 was sent to the parties under cover of the Tribunal’s letter of 15 October 2018. That letter was not returned to the Tribunal office by the Royal Mail and there is nothing to support any suggestion that it was not delivered to and received by the parties.
 - d. Rule 71 of the Employment Tribunal Rules of Procedure 2013 requires that an application for reconsideration shall be presented in writing “within 14 days” of the date upon which the judgment was sent to the parties: ie the application for reconsideration in this case should have been made on or before 29 October 2018. The respondent did not make any application for a reconsideration before that date and, as indicated above, he still has not done so. Instead, he wrote to the Tribunal on 12 November 2018 stating that he wished “to appeal”.
4. Having considered these matters in the round and reminding myself that the question of the interests of justice is applicable to both parties in these proceedings I am not satisfied that it is necessary in the interests of justice to reconsider the judgment.
 5. For completeness, and once more recognising the position of the respondent as a litigant in person, I have, however, proceeded to reconsider the judgement on the basis that, for these purposes, my decision on the above fundamental point was different and I had decided that it was in the interests of justice to do so.
 6. Rule 72 of the Employment Tribunals Rules of Procedure 2013 provides, amongst other things, as follows:

“If the Judge considers that there is no reasonable prospect of the original decision being varied or revoked ..., the application shall be refused and the Tribunal shall inform the parties of the refusal.”
 7. In considering whether there is no reasonable prospect of the original decision being varied or revoked I have again brought into account the above matters. Additionally, I have considered the attachment to the respondent’s e-mail of 2 December 2018 in which he refers, amongst other things, to being “of the opinion

that he would and could continue to support the claimant by paying a full wage during her continued sick absence as he had endeavoured to do during her absence from March 2018” and at other times to which he refers; that he “can see no contractual reason” to support the claimant indefinitely, “I do realise that I have paid for staff absence, so my habit of paying for absence has probably more than anything contributed to my present situation, but is an unwise habit binding?”; he “believes that he has paid more to the claimant than the total of any SSP award had one been made”; he “believes that he is now being expected to continue to pay the claimant indefinitely and he Bruce Crabbe believes this to be an unreasonable expectation.”

8. Having carefully considered the application on behalf of the respondent (assuming for these purposes that such an application has been made) I am satisfied in all the circumstances including all of those summarised above that, “there is no reasonable prospect of the original decision being varied or revoked.” As such, the application made by the respondent once more assuming for these purposes that his letter is intended to be an application for reconsideration) is refused.

EMPLOYMENT JUDGE MORRIS

**JUDGMENT SIGNED BY EMPLOYMENT
JUDGE ON 27 December 2018**

**JUDGMENT SENT TO THE PARTIES ON
28 December 2018**

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