



EMPLOYMENT TRIBUNALS

Claimant: Mr C Bowyer

Respondent: Avensure Ltd

JUDGMENT

The claimant's application for reconsideration of the judgment sent to the parties on 12 March 2019 is refused, and the judgment dismissing his claims stands.

REASONS

1. The claimant failed to attend , or be represented at, a preliminary hearing held on 7 March 2019. There was no warning of his non – attendance , nor any explanation for it. In the circumstances the Tribunal acceded to the respondent's application that the claims be struck out pursuant to rule 47.

2. The claimant by email of 18 March 2019 wrote to the Tribunal in these terms:

"I'm sorry for the mix up I had the date in the diary for the 27th of this month. I called last week even when I received the email to say I event had this date booked off with work. Also on the first week of this month I was actually off with illness – the Flu which was going about and I needed to be off as I could'nt event get out of bed.

Is there is any chance we can reschedule a I believe I have a case against Avensure and the way they treated me."

3. This was treated by the Tribunal as an application for reconsideration of its judgment dismissing the claims, and was copied to the respondent for comment.

4. The respondent provided its comments by email of 28 March 2019, which was copied to the claimant. Objection was made to the application. The respondent's reasons for objecting were that the claimant's alleged ignorance of the notice of hearing was not a good excuse, no medical evidence had been provided in support of his application, and no explanation had been advanced for

the claimant's previous failure to respond to the Tribunal's letters of 6 and 28 February 2019, a demonstration of the claimant's ongoing failure to engage with the Tribunal and actively pursue his claim. It was also pointed out by the respondent that the claimant was an experienced sales consultant responsible for advising and selling HR and Employment Law services to clients.

5. Having received that email, by letter of 8 April 2019 the Tribunal wrote to the claimant further seeking his comments, and, in particular, asking him to address why he had failed to respond to the Tribunal's letters of 6 and 28 February 2019. He was asked to reply by 15 April 2019.

6. The claimant failed to do so, so by a further letter dated 27 April 2019 the Tribunal gave the claimant a final opportunity to make representations addressing the specific points made by the respondent and the Tribunal, failing which his application for reconsideration would be dismissed. He was told to reply by 3 May 2019.

7. The claimant has failed to respond to that letter.

8. As the claimant was told in the Tribunal's letter of 27 April 2019 under Rule 72(1) of the 2013 rules of procedure, an Employment Judge shall consider any application for reconsideration, and if he or she considers that there is no reasonable prospect of the original decision being varied or revoked, the application shall be refused without a further hearing. The Employment Judge was minded to dismiss the application on the basis that it had no reasonable prospects of success. Unless and until the claimant addressed the points made by the respondent, including his failure to respond to the Tribunal's letters, he could not see how it would be in the interests of justice to allow him to proceed with a claim that he had failed actively to pursue. No response to that letter either has been received.

9. The position is therefore that the claimant made an application for reconsideration of the judgment by his email of 18 March 2019. That is a confusing document, as it seems to suggest two reasons for his non – attendance, the first, ignorance of the hearing date, the second, illness which would have prevented him from attending in any event. The second is irrelevant if he did not know of the hearing date – it was this ignorance, not his illness which caused him not to attend. There is, however, no evidence anyway of his illness, or even his absence from his current employment.

10. Further, as has been pointed out in the judgment and the respondent's objections to the application, there has been no communication from the claimant since 26 November 2018, and he has failed to reply to the Tribunal's letters of 6 and 28 February 2019, or to explain why he has failed to do so.

11. The only ground for reconsideration in the current rules is that it is in the interests of justice that the judgment be reconsidered. Given the claimant's continued failure to explain his conduct of these proceedings, and his repeated failure, even now, to respond to the Tribunal's letters, this is clearly a case which has been pursued in a lackadaisical fashion by the claimant. It has not been actively pursued, and the claimant has behaved unreasonably. His explanation for his non – attendance is vague, and contradictory. It cannot, accordingly, be in the interest of justice to reconsider the judgment dismissing the claims for his non – attendance. The claimant has been warned of the likely consequences of his

continued failure to respond to the Tribunal. The application has no reasonable prospects of success, and is accordingly dismissed without a hearing pursuant to rule 72(1) of the 2013 rules of procedure.

Employment Judge Holmes

Dated: 9 May 2019

JUDGMENT SENT TO THE PARTIES ON

15 May 2019

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FOR THE TRIBUNAL OFFICE