



EMPLOYMENT TRIBUNALS

Claimant: Mr E Shirley

**Respondents: (1) Fulham Cross Girls' School
(2) Peter Haylock**

JUDGMENT

The claimant's application dated 18 April 2019 for reconsideration of the judgment sent to the parties on 3 April 2019 is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because:

1. The reason for striking out the claimant's claims are clearly set out in the conclusion at paragraphs 23 to 32 of the Judgment sent to the parties on 3 April 2019. The conclusion was reached after deciding the facts and applying the law to the facts.
2. I concluded that because the claimant was represented by his union and had also the assistance of a friend, Miss George, who was capable of telephoning ACAS on his behalf, it was reasonably practicable for the claimant's claim to have been presented in time and it was not just and equitable to extend time in the particular circumstances. Both the union and Miss George were aware of the three months' time limit before it had expired and should have known of the need to enter into early conciliation. A telephone call to ACAS within the first three months would have extended time to present the claim form.
3. There is nothing in the claimant's application for a reconsideration (labelled an appeal to the EAT) to alter this original decision. I did take account of the claimant's disabilities when reaching my decision. I was not aware of Miss George's incurable debilitating illness but Miss George came across, when giving evidence, as a very capable and supportive friend. She demonstrated her abilities to assist the claimant by communicating with the union and ACAS on the claimant's behalf and by presenting his claim form to the Tribunal. The claimant was a member of the union Unison and his union representative

should have been aware of the three months' time limit and the need to enter in to early conciliation with ACAS.

4. My decision was based on the evidence presented on the day. No further evidence has been provided to change that decision.
5. The check list in section 33 of the Limitation Act was taken in to account. I did not feel that the delay unduly prejudiced the respondents as it wasn't a significant delay. However, the reason for the delay was a factor that was considered in refusing to extend time. The delay was due to neither the union nor the claimant contacting ACAS within the three months' period.
6. There is a need for strict time limits. It is the exception to the rule to extend time. The claimant has lost the opportunity to have his case heard by a Tribunal because his claim form was presented out of time when it was possible for it to have been presented in time.

Employment Judge A Isaacson

Date 5 June 2019

JUDGMENT SENT TO THE PARTIES ON

5 June 2019

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FOR THE TRIBUNAL OFFICE