



that the fees' regime for the Employment Tribunal was unlawful and void. The matter was then stayed pursuant to the Presidential Order but then removed consequent upon the second Presidential order. The respondent has submitted written representations in respect of the application stating that it attended the hearing and understood nothing more would be done.

3. The claim is for £3,030 in expenses and holiday pay. The respondent refuted the claim and alleged that, in fact, the claimant had been overpaid. It attached her wage slips to the response form.

4. The application is considered in accordance with rule 70, rule 72 and rule 2. The Tribunal may reconsider any judgement where it is necessary in the interests of justice to do so. The Tribunal must consider the application in accordance with the overriding objective, to deal with cases fairly and justly. That includes having regard to, amongst other matters, ensuring that the parties are on an equal footing, dealing with cases in ways which are proportionate to the complexity and importance of the issues, avoiding unnecessary formality and seeking flexibility in the proceedings, avoiding delay, so far as is compatible with proper considerations of the issues, and saving expense.

5. A notice of hearing was sent to the parties on the 10 April 2017. It informed the parties that unless there were exceptional circumstances no application for postponement would be granted but any such application should be in writing. The parties were also informed that they should ensure relevant witnesses attended the hearing and that they provide sufficient copies of any relevant documents. They were informed that they may submit written representations, to be filed seven days in advance and would have the chance to put forward oral arguments in the case.

6. The managing director of the respondent attended, Mr Bartrupe. The claimant did not attend and made no application for a postponement of the hearing in writing or otherwise. The claimant had not provided a telephone number on her claim form so the Tribunal was unable to contact her on the morning of the hearing.

7. The respondent has been subjected to inconvenience and expense in having to attend the hearing. The claimant has occasioned unnecessary delay in the determination of her complaint, in failing to attend the listed hearing and, most significantly, failing to seek a postponement of the hearing in advance. For these purposes I have specifically left out of account that delay which related to the request to pay a fee for the application and the stay, none of which was attributable to the fault of the claimant. That delay was a consequence of the unlawful fee regime and subsequent orders of the Tribunal to address the handling of cases which were affected by it.

8. Parties have an obligation to pursue their cases actively and to act reasonably. I do not regard it as a reasonable excuse for the claimant to attend an interview on the day of the hearing without notifying the Tribunal in advance of the dilemma she says she was in. I am not satisfied that reasonable efforts were made by her to seek a

postponement of the hearing, nor sought to communicate with the Job Centre about the Tribunal hearing. There is no evidence to suggest that the claimant would have been penalised by the DWP in her benefit entitlement if the reason she had been unable to attend, or had to rearrange, a job interview was to attend a court hearing.

9. Whilst I recognise that the sum claimed is a significant one for the claimant, in her current circumstances, I am not satisfied her failure to pursue her claim by attending the hearing without a reasonable excuse justifies the further expense and delay of revoking the judgment. The principle of finality in litigation is one of a number to which I must have regard. In considering whether it is necessary in the interests of justice to reconsider a judgement the Tribunal must also have regard to proportionality and the conduct of the parties. The Tribunal considers there is no reasonable prospect of success of revoking this decision, on its evaluation of all these matters.

Employment Judge D N Jones

Date: 31 October 2017