



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr L Morton-Buwerimwe

**Respondent:** Plusnet plc

**Before:**  
Employment Judge JM Wade (in chambers)

## JUDGMENT

### On a reconsideration pursuant to Rule 70

The Judgment striking out the claimant's claims, sent to the parties on 27 February 2019, is revoked. I make separate case management orders.

## REASONS

1 On 23 October 2018 the claimant presented two claim forms; the first asserted claims of race and disability discrimination against his employer, and appeared to attach an unnumbered grievance letter to his employment; the second claim asserted the original claims with a request to link the two complaints and also claimed "other payments" were due. There were no relevant details provided in the second claim form. The claimant's employment was said to continue.

2 On 2 November 2018 a direction was given that no response was required until the claimant had provided particulars in numbered paragraphs identifying the treatment complained of and whether it related to race or disability.

3 On 18 December 2018 the file was referred to me with no reply to the 2 November direction apparent from the claimant. I directed a strike out warning be issued. This was not sent to the claimant until 1 February 2019 with a reply due by 15 February 2019. This correspondence was copied to the respondent at its postal address.

4 The file was then referred to me on 25 February with no response from the claimant on the file. I struck out the claimant's claims.

5 Today the file was referred to me following correspondence from the claimant in June seeking a Judgment in default of response. It has become clear that he provided the particulars to the respondent by email to [grouphr@plus.net](mailto:grouphr@plus.net) on 5 February 2019 and to the Tribunal. The Tribunal's auto acknowledgment told him that he would receive correspondence only if further action was required. In error, the correspondence from him was not placed on the file. No response

was required until the particulars were given (which the respondent appears to have known on or around 5 February 2019).

6 My judgment striking out the claims was clearly given in ignorance of the fact that the claimant had provided the ordered particulars and must be revoked as a matter of urgency, and that is of my own motion. The fact that nearly four months has gone by is a factor, but it is overridden by the clear injustice in the chain of events above, which has arisen from the Tribunal's error.

7 The claimant has made application for a reconsideration, and for my judgment to be set aside. He has said in correspondence that the first time he was aware of a Judgment was by telephone when enquiring about his application for a Judgment in default of response. In these circumstances, I take him at his word on that, as it appears very likely to me, that for whatever reason, he did not see the Judgment when it was sent in February.

8 Furthermore, the respondent neither sought to provide a response between 5 February 2019 and 27 February 2019 when the Judgment was sent to the parties, nor pointed out the Tribunal's error sooner on receipt of the Judgment. It seems to me that the chain of communication on all sides has gone badly awry in this case.

9 In all these circumstances it is not necessary in the interests of justice to hear from the parties further before revoking my previous Judgment. The need for a response to the claims is now of some urgency, which I address in separate case management orders.

10 These events occurred at a time when administrative resourcing in the Tribunal had not kept pace with the increase in the case load, and that appears to me to be part of the explanation for the chronology in this case. It is a less than satisfactory path to justice for the parties. My case management orders seek to address that.

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Employment Judge JM Wade

Date 21 June 2019