



EMPLOYMENT TRIBUNALS

Claimant: Mr P Grzywna

Respondent: DHL Express

JUDGMENT ON RECONSIDERATION

The application for reconsideration is dismissed as standing no reasonable prospect of success.

REASONS

1. By a judgement dated 4 June 2019 and sent to the parties 21 June 2019, I struck out the claimant's claim on the grounds that he had failed to pursue it. I also ordered the claimant to pay the respondent's costs, in the sum of £570.
2. My reasons for that judgement set out the full history of this case.
3. By an email dated 30 June 2019, the claimant applied for a reconsideration of my judgement.
4. In accordance with the provisions of Rule 72, Tribunal Rules of Procedure 2013, that application was placed before me to decide if it stood any reasonable prospect of success.
5. The original decision to strike out the claim was made at a preliminary hearing which the claimant failed to attend.
6. That hearing was listed for a Tuesday (4 June). The claimant explained in his application for reconsideration that he was unable to attend that hearing because of work.
7. In his letter applying for a reconsideration, the claimant asserts that he had repeatedly written to the tribunal asking for any hearings to be listed on a Monday or a Friday to accommodate his new employment and explains his failure to attend the hearing in that light.
8. That application is based on a factual inaccuracy. The claimant's case was first listed for a preliminary hearing on Monday, 14 January 2019. The claimant applied for an adjournment of that hearing because he was unable to attend due to work commitments. He asked for the case to be relisted but not until March. He did not specify which day of the week would suit him.
9. The case was duly relisted the case for 4 March, again, coincidentally, a Monday.

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10. By email of 18 February 2019, the claimant asked to be excused attendance and asked that he be permitted to deal with the matter on paper. He was advised that that was not possible given the nature of the hearing.
11. At that stage the claimant was saying that attendance at any hearing at all would be problematic.
12. In the event, due to list congestion the hearing of 4 March 2019 had to be postponed and the claimant was asked to supply availability for dates in the period 18 March 2019 to 30 April 2019.
13. The claimant did not and the case was relisted for 29 April 2019, again, coincidentally, a Monday.
14. On 26 April 2019, the claimant contacted the tribunal to say that he could not attend on that date either.
15. That hearing too was postponed and relisted for Tuesday, 4 June 2019. It was not until 30 May 2019, well after the notice of hearing had been sent to the parties, that the claimant began making applications for a postponement, specifying that he needed the hearing to be on a Monday or a Friday although, he did at one point say that he would be able to attend the hearing on 4 June 2019, despite initially saying that he could not.
16. The claimant's claim was not struck out simply for his failure to attend the hearing on 4 June 2019 although that was the trigger for the decision. In my judgement I noted the claimant's repeated failure to attend a preliminary hearing and I also noted the crucial importance of the preliminary hearing to the progress of this case given, in particular, the obscure way in which the claim was pleaded. I concluded that without the claimant's participation at a preliminary hearing a fair hearing would not be possible.
17. I am empowered to reconsider my decision if I think that the interests of justice require a reconsideration. Given the history of this matter, I consider that the claimant has no prospect of satisfying me that, in the future he will participate properly. Certainly, his application for reconsideration does not offer grounds for such a hope. The interests of justice include the necessity of saving time and money and for the finality of litigation.
18. For all the above reasons this application is dismissed.

Employment Judge **Rostant**

Date: 31 July 2019