



EMPLOYMENT TRIBUNALS

Claimant: Mr. Kapil Sangar

Respondent: Waterfield House Partners

JUDGMENT

The claimant's application dated 7 April 2019 for reconsideration of the judgment sent to the parties on 26 March 2019 is refused.

REASONS

1. The Claimant presented an application for reconsideration dated the 7 April 2019. In his application he challenged the decision to dismiss his claims and to award to the Respondent their costs of £500 in relation to a telephone hearing that took place on the 27 September 2018.
2. The Claimant challenged the judgment on the following grounds:
 - a. At the time of the hearing (on the 1 March 2019) his father had discovered that he had to have heart surgery;
 - b. The Claimant is the sole earner within the family;
 - c. The Claimant's mental health had been negatively affected by the whole process dating back to when he left his former employer;
 - d. He was not given confirmation of the date of the 1 March 2019 and when he was telephoned by the clerk he thought it was a hoax;
 - e. When he was called by the clerk (on the 1 March 2019) he was not informed of his options.
 - f. He denied that he had acted unreasonably and requested that the decision to award costs be reconsidered.

Decision.

3. I will deal with the issues above at paragraph 2(a) and (c) first. There was no evidence before the Tribunal either at the hearing or attached to the

request for reconsideration, that the discovery that the Claimant's father had to undergo surgery was a reason why he could not attend the hearing. This was not something that the Claimant mentioned when he spoke to the clerk on the morning of the hearing. The Tribunal were told that he had informed the clerk that he was busy and couldn't come to a hearing. The Claimant has failed to provide any evidence that this news was provided to him close to the date of the hearing and was a reason for his failure to attend. In the absence of any corroborative evidence the Tribunal conclude that this is not a sufficient ground to reconsider the judgment.

4. Although the Claimant stated above that his mental health has been negatively affected, there was no evidence produced to support this. No medical evidence was produced to suggest that the Claimant had experienced problems with his mental health that prevented him from attending the Tribunal on the 1 March 2019. As this was unsupported by any evidence, this was not a sufficient reason to reconsider the decision.
5. The tribunal did not understand why the Claimant was prevented from attending the hearing on the 1 March due to being the sole wage earner (see above 2(b)). This appeared to suggest that the Claimant was at work on the day of the hearing which appeared to conflict with his submission in the alternative that he was unable to attend due to his father's or his own ill health. The Claimant failed to provide any evidence in support of his application and this reason for requesting a reconsideration appeared to contradict the reasons referred to above at 2(a) and (c).
6. The Claimant also seeks a reconsideration above at 2(d) on the grounds that the reason he did not attend was because he was not provided with confirmation of the hearing date. The tribunal concluded that this was not credible and written reasons have been provided that deal with this point. However briefly it was concluded that the hearing date for the 1 March 2019 was agreed in a telephone hearing before me on the 27 September 2018; the Claimant attended this hearing. Further the date of the hearing was sent to the Claimant's email address on the 7 November 2018. Even if the Claimant did not receive the email dated the 7 November 2018, the Respondent sent the Claimant their written submissions and application for costs on the 27 February 2019.
7. The consistent evidence before the Tribunal was that the Claimant had been informed on at least three occasions of the hearing on the 1 March 2019, twice by the Tribunal and once by the Respondent. The facts therefore support the conclusion that the Claimant had been provided with confirmation of the hearing date. His application for a reconsideration on this ground is refused.
8. The last ground for requesting a reconsideration was that the Claimant stated that he was not told of his options by the clerk in the telephone call on the 1 March 2019. The role of the clerk in telephoning the Claimant on the 1 March 2019 was to establish whether the Claimant was on his way or whether he had been held up in traffic. It was not for the clerk to provide advice or assistance to the Claimant or to provide input on how he should proceed with his case. His application for a reconsideration on this ground is refused.

9. For the reasons stated above and having considered every point raised in the application for a reconsideration, it is concluded that there is no reasonable prospect of the original decision being varied or revoked.

Employment Judge Sage
Date: 1 August 2019