



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr J Clark

**Respondent:** Devizes Textiles Ltd (in administration)

**UPON APPLICATION** made by a letter dated 11 June 2019 and amplified in an email dated 25 June 2019 to reconsider the judgment under rule 71 Employment Tribunals Rules of Procedure 2013 dated 6 June 2109.

## JUDGMENT

1. The judgment striking the claim out is revoked. The claim is therefore reinstated.
2. Case management directions, including the date of the hearing, are enclosed.

## REASONS

1. The claimant has applied for a reconsideration of the judgment dated 6 June which was sent to the parties on 11 June 2019. The grounds are set out in a letter dated 14 June 2019 and amplified in an email dated 25 June 2019.
2. The claimant brought an unfair dismissal claim. It was struck out due to the claimant having insufficient service. The strikeout warning was sent to the claimant on 28 May 2019 and he was given until 4 June 2019 to give reasons in writing why the claim should not be struck out. The claimant failed to provide any reasons why the claim should not be struck out.
3. Law and procedure: Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure 2013 ("the Rules"). Under Rule 71 an application for reconsideration under Rule 70 must be made within 14 days of the date on which the decision (or, if later, the written reasons) were sent to the parties. The application was therefore received within the relevant time limit.
4. The grounds for reconsideration are only those set out in Rule 70, namely that it is necessary in the interests of justice to do so.
5. If the application is not refused on paper the tribunal will send a notice to the parties setting a time limit for any response to the application by the other

parties and seeking the parties' views on whether the application can be determined without a hearing — rule 72(1). The notice may also 'set out the judge's provisional views on the application. The matter will then proceed to a hearing, unless the employment judge considers — having regard to any response to the application — that a hearing is 'not necessary in the interests of justice' — rule 72(2). If the reconsideration proceeds without a hearing, the parties shall be given a reasonable opportunity to make further written representations — rule 72(2).

6. The grounds relied upon by the claimant are these:
  - a. His complaint is of automatic unfair dismissal pursuant to section 103A Employment Rights Act 1996 for which he does not require two years' service
  - b. When setting out his claim he did not realise he was required to use "legalised English"
  - c. His internet and phone had been recently cut off due to financial difficulties
  - d. He did not receive the strike out warning which was sent by email
7. I directed that an Order be sent to the parties on 20 September 2019 setting out my provisional view and also requesting from the respondent: (a) any submissions it wishes to make in relation to the reconsideration application (b) its views on whether the application can be dealt with on paper as opposed to an in person hearing.
8. Because the respondent has gone into administration the correspondence was copied to the liquidator.
9. By letter and email, dated 23 October 2019, the liquidator confirmed that they were agreeable to the reconsideration being done on paper. No submissions were made in relation to the reconsideration application.
10. Conclusion: It is in the interests of justice to permit the reconsideration and revoke the strike out judgment. The claimant is not legally represented. He failed to appreciate the significance of reference to whistleblowing and automatic unfair dismissal within the claim form. Further, he had difficulties responding to early correspondence from the tribunal.

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**Regional Employment Judge Pirani**  
**30 October 2019**