



EMPLOYMENT TRIBUNALS

Claimant: Mr D Ajao
Respondent: Bank of America Merrill Lynch International DAC

Heard at: Ashford **On:** 24 September 2019

Before: **EMPLOYMENT JUDGE CORRIGAN**
Sitting Alone

Representation

Claimant: No appearance
Respondent: No appearance

JUDGMENT

1. Neither party having attended the Claimant's claim is dismissed upon the Claimant's withdrawal (dated 3 July 2019).

REASONS

1. The clerk telephoned the Claimant who said he had not received the Notice of Hearing for today however it was sent to him on 2 July 2019 and the Claimant replied to that email, as set out below.
2. The Claimant withdrew claim number 2300646/2019 on 24 June 2019. A Judgment dismissing that case upon the withdrawal was sent to the parties on 29 June 2019.
3. This claim (number 2301486/2019) had already been presented by the Claimant on 29 April 2019. A notice of this preliminary hearing was sent to the parties on 2 July 2019. It was sent to the Claimant's email address as the Claimant then replied to that email on 3 July 2019 as follows:

"Please accept this as a notice to withdraw Claim 2301486/2019 and any other claims that may be outstanding between the Claimant and the Respondent..."

A notice of withdrawal of claim 2300646/2019 was made on [24 June 2019] at which point [the Claimant] was of the belief that [the two claims] had been merged as one claim.

Therefore, I shall be glad if all claims are withdrawn immediately".

3. Prior to judgment being issued the Claimant wrote on 1 August 2019 to ask that both cases be reinstated due to the “conduct” of the Respondent. He said he could not attend the Preliminary Hearing (on 25 June 2019 in respect of case 2300646/2019) owing to “deception” on the part of the Respondent. In fact he had already withdrawn that case the day before the Preliminary Hearing and requested that the hearing be vacated. Today’s hearing remained in the list due to this email from the Claimant.
4. However, once a Claimant withdraws the case it comes to an end and the Tribunal has no power to set aside the withdrawal or revive the claim (rule 51 Employment Tribunals Rules of Procedure).
5. Moreover the claim shall be dismissed upon a withdrawal unless the Claimant at the time of withdrawal reserved the right to bring a further claim and the Tribunal is satisfied there would be legitimate reason for doing so; or the Tribunal believes dismissal would not be in the interests of justice (rule 52). The Claimant did not reserve the right to bring a further claim and indeed in his withdrawal of claim 2300646/2019, which he said he believed applied to both cases, made clear he did not reserve the right to bring a further claim and did not object to dismissal of the proceedings. The Response to claim 2300646/2019 also states that the Claimant has signed a COT3 settling all claims arising out of his employment with the Respondent. In all these circumstances the Judge considered the claim should be dismissed upon withdrawal as there is no basis to do otherwise (applying rule 52).

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Employment Judge Corrigan
Ashford

27 September 2019