



# EMPLOYMENT TRIBUNALS

BETWEEN

**Claimant:** Mrs G Brown

**Respondent:** Stockton Care Limited

## JUDGMENT OF THE EMPLOYMENT TRIBUNAL ON AN APPLICATION FOR RECONSIDERATION OF A JUDGMENT

The application for reconsideration of a Judgment by the claimant contained in a letter from the respondent dated 13 November, 2019, is refused in accordance with Rule 72(1) of the Employment Tribunal Rules of Procedure, 2013, on the ground that there is no reasonable prospect of the Judgment being varied or revoked

### REASONS

1 By a letter from the respondent dated 13 November, 2019, the claimant has applied for reconsideration of the Tribunal's Judgment given following the hearing on 4 November, 2019. The claimant was asked for comments on the application but has failed to respond.

2 Rule 71 of Employment Tribunal Rules of Procedure, 2013, provides that an application shall be made in writing. Although it might be possible for an Employment Judge to seek further particulars, there is a presumption in the Rules that any application should be complete and set out all matters relied upon so that the application can, if appropriate, be responded to by the other party and considered by the Employment Judge.

3 The respondent failed to respond to the claimant's complaints within the prescribed time. In an email dated 17 October, the respondent stated that its response was submitted by mail (it is not indicated if this was by post or email) on 28 September, 2019, (within the prescribed time) but appeared not have been received. In the letter of

13 November, 2019, the respondent states that it was unable to give an acceptable answer for the delay in responding to the complaints. Further, 'this was an oversight and I accept full responsibility. Once it came to my knowledge, I completed the Claim Form (sic) and returned it via email'. There is clearly a conflict in these two versions of events and raises questions about the respondent's credibility and the manner in which it is conducting these proceedings.

4 The respondent then goes on to deal with why it did not attend or arrange to be represented at the hearing. It states 'it was interpretation that my attendance would not be required at the preliminary hearing and I would be direct to attend at later final hearing'. This is not credible. By a letter dated 19 October, 2019, sent to the claimant but copied to the respondent, the Tribunal stated that the response had been received later and asked for the claimant's comments. It did not state that the response had been accepted. By a further letter 30 October, 2019, the respondent was informed that the 'application to extend the time for filing the response would be considered at the preliminary hearing on 4 November, 2019. The respondent should bring to the hearing any evidence it has got to prove that it sent its response to the Tribunal on 28 September, 2019'. This would seem to be entirely clear. The issue of whether the response would be accepted was to be resolved at the hearing of which the respondent had had notice and the respondent was required to produce any evidence that it could of the alleged failed submission of the response. However, it did not provide anything, either before or at the hearing, and it has now changed its story.

5 Even if the respondent sought to argue that it did not understand the allegations made against it in the claimant's complaints, the Judgment and the Reasons set out the allegations and the Tribunal's findings in some detail. Directions were also given and confirmed in writing to the parties setting out what would be considered at a further hearing to determine the outstanding complaint. Despite all of this, the respondent in its letter of 13 November, 2019, has still only commented on the allegation of unfair dismissal. Even in respect of that allegation, the respondent's version of events does not attempt to show that a proper disciplinary procedure was followed to a conclusion or explain why the claimant's answer to the allegation made against her was not accepted. Similarly, it is not stated why the claimant's version of events was rejected. All of the other allegations have been ignored. There is therefore nothing to show that if the respondent was allowed to contest the claimant's allegations it would have any prospect of succeeding.

6 Accordingly, the respondent has failed to demonstrate that it has reasonable prospects of showing that it was entitled to a different decision in this case.

7 With regard to whether the interests of justice require reconsideration of the Judgment, although the respondent is clearly disappointed with the Tribunal's Judgment it has failed to provide anything that would support the proposition that the claimant's complaints should not succeed or that the respondent has arguable defences to the various allegations. As mentioned above, the application only partially deals with the alleged unfair dismissal and, as with the respondent's proposed response, fails to have any regard to the other heads of complaint. The respondent does not show that the interests of justice require the reconsideration of the Judgment or that there was any error on the part of the Tribunal.

8 Having regard to all of the circumstances, the claimant has not established that the interests of justice require that the Judgment needs to be reconsidered or that, if it was reconsidered, there is a reasonable prospect of the Judgment being varied or revoked.

9 Rule 72(1) as set out in the Employment Tribunals Rules of Procedure, 2013, states that the Employment Judge considering an application for reconsideration of a Judgment shall refuse the application if he considers that there are no reasonable prospects of the original decision being varied or revoked.

10 It follows that the application for reconsideration of the Judgment is refused.

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Employment Judge Nicol

Date 16 December, 2019

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