



EMPLOYMENT TRIBUNALS

Claimant: Ms Julie Rimmington

Respondent: (1) Sarah Kinsley
(2) The Blindz Store Limited

JUDGMENT

The claimant's application dated **13 May 2019** for reconsideration of the judgment sent to the parties on **30 April 2019** is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because :

1.The claimant's application dated 13 May 2019 sets out four specific matters which are relied upon in support of an application that the Tribunal reconsiders its judgment whereby the respondents were granted an extension of time for presentation of the response.

2.Those matters centre upon the evidence of the first respondent, and her cross – examination. It is submitted that her evidence has not been fully considered by the Tribunal, and that she has failed to provide a full and honest explanation for the delay in filing the ET3.

3.The claimant's representative reminds the Tribunal of the unsatisfactory nature of the evidence in relation to how post was dealt with at the address where the claims were served, her knowledge of the registered office of the company, the absence of a letterbox , and whose fault the further delay in submitting the ET3 was.

4.Whilst comment is made that the respondent only submitted the response the day before the hearing, and here was little time for the claimant to prepare to challenge her evidence, it is to be noted that , once the Tribunal had allowed the first respondent to give evidence, no subsequent application was made by Mr Warnes for a postponement at any stage.

5.It is submitted that the first respondent's contradictions were not fresh in the Tribunal's mind, and that , in effect, insufficient weight has been given to them. It is suggested that the Tribunal's finding is perverse.

6.The Employment Judge has considered this application pursuant to rule 72(1). He takes the point, as he did in his judgment (para. 23) that there were unsatisfactory aspects of the evidence of the first respondent. He gave those all due weight.

7.Nothing in the application for reconsideration , however, gives the Employment Judge any basis for making a finding of fact that the first respondent did in fact receive the proceedings at the address where they were served, but ignored them. There are obviously suspicions that she did, and that is a possibility, but it is not, on the evidence , a probability. As noted in the judgment, it is an unfortunate consequence of the absence of any reference to “Blindz” in the name of the respondent, or the address given for service, in the claim form that that has made it at least possible that the first respond is right in what she says.

8. The first respondent had to prove, in effect a negative, but the claimant could not in these circumstances prove the positive, that the claim form did in fact come to the attention of the first respondent. As observed in the judgment, the first respondent’s actions once alerted to the preliminary hearing are those of a person intending to defend the claims.

9. It is noted that there are no others matters advanced in support of the application. Extensions of time are a matter of discretion. The Employment Judge is satisfied that all the relevant circumstances were taken into account , including the aspects of the first respondent’s evidence highlighted in the application. He accepts up to a point that there are unsatisfactory aspects of the evidence, and the explanations given, but those cannot justify a finding that the first respondent did actually receive the claim form, which appears to be the finding for which the claimant is contending.

10. There is thus no reasonable prospect of this judgment being revoked or varied, and the application is dismissed pursuant to rule 72(1) of the 2013 rules of procedure.

Employment Judge Holmes

Dated : 5 June 2019

JUDGMENT SENT TO THE PARTIES ON

18 June 2019

FOR THE TRIBUNAL OFFICE