



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms H Phillips  
**Respondent:** Keys Care Limited

## JUDGMENT ON RECONSIDERATION APPLICATION

The Claimant's applications by email and attachments sent on 16 September 2020 for extension of time for application for reconsideration of the Judgment striking out the claim which was sent to the parties on 30 July 2020 is refused.

### REASONS

1. The reasons for the Tribunal's Judgment on the application for reconsideration are set out herein only to the extent that the Tribunal considers it necessary to do so in order to explain its decision, and only to the extent that it is proportionate to do so.
2. Further in the application and in the written representations received from the Respondent sent on 21 September 2020, both parties asked for the application to be dealt with without a hearing.
3. The applications for extension of time, and reconsideration of the Judgment in this case was made under Rule 71 of the Employment Tribunals Rules of Procedure 2013 (the 2013 Rules). They were set out in some detail in the email and attachments referred to above. At the time the emails were sent to the Tribunal, the Claimant also copied them to the Respondent. It is therefore not proportionate to repeat in these Reasons the detailed grounds on which the application for reconsideration was made.
4. The application for an extension of time for presentation of the

reconsideration application of the decision made on 9 July 2020 and sent to the parties on 30 July 2020 is refused. The application was made more than 14 days after the decision was sent to the parties and the Tribunal rejected the application for an extension of time under Rule 5, for the reasons relied upon by the Respondent in its representations dated 21 September 2020.

5. Further, in the alternative, the substantive application would have been rejected under Rule 72(1) of the 2013 Rules on the basis that there was no reasonable prospect of the original decision being varied or revoked. The Tribunal relies in this alternative decision on the points made by the Respondent's solicitors in the same letter, although some of the points made in that letter are set out here to assist with explanation of the Tribunal's decision.
6. The claim was struck out on the grounds of failure by the Claimant to comply with Orders made in July 2019, and because the claim was not being actively pursued. The matters complained of were alleged to have occurred in the time frame 2017 – 2018. A fresh four-day hearing was unlikely to be listed before the autumn of 2021.
7. At all material times, the Claimant was legally represented. There were numerous attempts by both the Respondent's solicitors and the Tribunal to elicit a response from and/or compliance with the Orders. The Order had been duly served on the Claimant's representative by email sent on 25 November 2019. Although the application by the Claimant's representatives is based on the assertion that her allocated representative was indisposed, there is no clarity about the time frame in which this was said to be current, and there was no information provided about any steps taken by the Claimant herself to chase her representatives before the claim was struck out in July 2020, less than three months before the case was due to be heard on 20 October 2020.
8. The Respondent appeared to have acted properly and was not at fault in any way. The Claimant would not be left without a potential remedy in a case where there has been an apparent default by her advisers.
9. In all the circumstances, the Tribunal did not consider that there were any reasonable prospects of the Tribunal deciding to revoke or vary the Judgment based on the contents of that letter, and the application for reconsideration is hereby refused.

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Employment Judge Hyde  
Dated: 30 September 2020

