



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr R Shunmoogum

**Respondent:** St George's University Hospitals NHS Foundation Trust

## JUDGMENT OF THE EMPLOYMENT TRIBUNAL

**Heard at:** London South

**On:** 19 January 2021

**Before:** Employment Judge Kelly (sitting alone) in chambers

## JUDGMENT

**The judgment of the Tribunal is that:**

The Claimant's application for reconsideration of a Judgment to dismiss his claim of 27 October 2020 is refused.

### REASONS

1. On 27 Oct 2020, we dismissed the claimant's claim on his non attendance at a video conference hearing and we refer to our Reasons in the Judgment of that date.
2. We treated the claimant's email of 29 Oct 2021 as a request for reconsideration of this decision.
3. In that email, the claimant asked for the dismissal judgment to be reconsidered on the following grounds: He is 'elderly' and not computer literate, and relies on his family to check his emails. He is stuck in Mauritius due to the covid pandemic. He cannot attend a telephone hearing.
4. The tribunal wrote to the parties on 2 December 2020 as follows:

- a. By 23 December 2020, the parties shall write to the tribunal (copying each other) to say whether or not they consider that the application can be determined without a hearing.

It is the provisional view of EJ Kelly that the application should be considered at an in person hearing at the tribunal offices, with the substantive hearing to be heard on the same day immediately after that decision, if the application is successful.

5. The claimant did not respond. The respondent replied on 22 December 2020 making submissions that the application could be dealt with without a hearing and on the substantive issue of whether the tribunal should grant the reconsideration application, which it resisted.
6. As the claimant has not responded, the claimant has previously stated that he cannot attend a remote hearing and the respondent has made submissions that the reconsideration application should be considered without a hearing, we consider it in the interests of justice to consider the application without a hearing in order to deal with the matter promptly.
7. Both parties have made written representations on the substantive issue of the reconsideration application. We are therefore making our decision on it now.
8. We note that the claimant was able to make his reconsideration application within two days of receiving the dismissal judgment. It therefore appears to us that the claimant does receive notification of tribunal correspondence and he is able to respond by email in a timely manner. We also note that the claimant was also able to seek an adjournment of the hearing listed for 22 July 2020. We do not accept that the claimant's absence abroad or lack of computer literacy prevent him from responding to correspondence from the tribunal.
9. The claimant has not provided any reasonable explanation or excuse for his failure to apply for an adjournment of the hearing listed for 27 October 2020, notice of which was sent to him on 24 August 2020. If the claimant was able to respond to the dismissal judgment within two days, he should have been able to apply for an adjournment within the period of two months between the notice of hearing and the hearing.
10. The claimant has also compounded his unreasonable behaviour by failing to comply with the tribunal order of 2 December 2020 by 23 December 2020 or even today's date.

11. Accordingly, we consider that the Judgment of 27 October 2020 was correctly made and we are not willing to reconsider it.

**Employment Judge Kelly**

Signed on: 19 January 2021