



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr S Lee

**Respondent:** Barrier Ex Ltd (In administration)

## JUDGMENT ON APPLICATION FOR RECONSIDERATION

1. The Claimant's application dated 25 January 2021 for a reconsideration of the Tribunal's judgment promulgated on 18 January 2021 dismissing the complaint of unfair dismissal, is allowed and the judgment is revoked.

### REASONS

2. By a Claim Form presented on 10 October 2020, the Claimant brought a complaint of unfair dismissal. The last date of presentation of the Claim Form being 13 October 2020, the complaint was presented in time.
3. The Respondent company was placed in administration, an Administrator (Simon Blakey) having been appointed on 20 July 2020. Proceedings were served on the Respondent and a Response was to be submitted by 11 November 2020.
4. By letter dated 22 October 2020, solicitors for the Administrator wrote to the Tribunal to say that consent of the Administrator had not been given, seeking a stay of the proceedings. The proceedings were stayed for a period of six weeks. On December 2016 Employment Judge Johnson asked the Claimant whether he had obtained consent of the Administrator or permission of the court for the proceedings to proceed.
5. In response, by email dated 22 December 2020, the Claimant's solicitors confirmed that the Administrator had not consented to the proceedings for unfair dismissal to proceed, nor did he have permission from the court, which left the Tribunal with little alternative but to strike out the Claimant's claim.
6. In light of the above correspondence, the Claim was dismissed and a judgment sent to the parties on 18 January 2021. Within a week, the Claimant's solicitors wrote to the Tribunal applying under rule 71 of the Employment Tribunal Rules of Procedure 2013 for a reconsideration of the judgment on the grounds of interests of justice. On 19 January 2021 the Administrator had in fact consented to the Claimant proceeding with his claim in the employment tribunal. In his application, the Claimant set out a comprehensive time-line of correspondence. By letter dated 03 February 2021 the Administrator's solicitors wrote to the Tribunal confirming that it consented subject to 5 'conditions' set out in its letter, all of which the Claimant has agreed to and none of which have a bearing, in any event, on the question of whether to revoke the original

judgment dismissing the Claim.

7. Having given careful consideration to the correspondence between the parties and noting the consent of the Administrator in the terms set out in the letter of 03 February 2021, I am satisfied that it is in the interests of justice for there to be a reconsideration of the original judgment. The complaint was only struck out on the understanding that the Administrator was withholding consent. As it was clarified the day after promulgation of the judgment that consent was in fact being given, there can be no prejudice to the Respondent in revoking the judgment. The application is therefore upheld and I revoke the judgment of 18 January 2021.

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Employment Judge Sweeney

15 February 2021