



## **EMPLOYMENT TRIBUNALS (SCOTLAND)**

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Case No: 4107530/2019 Reconsideration Hearing by Telephone Conference Call  
at Edinburgh on 14 April 2020

Employment Judge: M A Macleod

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Miss D Middleton

Claimant  
Not Present and  
Not Represented

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Mitsubishi Electric Air Conditioning Systems  
Europe Limited

Respondent  
Represented by  
Mr A Munro  
Solicitor

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### **JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

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The Judgment of the Employment Tribunal is that the claimant's application for reconsideration is refused.

### **REASONS**

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1. In this case, a Preliminary Hearing was listed to take place on 30 January 2020 at 10am for the purposes of case management.
2. The claimant did not attend at the hearing, nor was she represented. The respondent was represented by Mr Munro, solicitor.

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3. The Tribunal issued a Judgment dismissing the claim in its entirety, on the basis that this was the second hearing at which the claimant had not

attended, without giving any indication that she would not or could not attend.

4. The claimant sent two emails to the Tribunal on 30 January 2020, in which she described herself as “at home in a right state scared”, and enclosing a doctor’s letter, in one, and in the other, she said that she was “now at home having panic attacks”.
5. The first email did not in fact enclose a doctor’s letter, but a short letter from an Advanced Nurse Practitioner at her General Practice. In that letter, Ms Boyle said that she had recently changed medical practice, and therefore that they had very limited information and minimal contact with her. However, she narrated that the claimant had previously had diagnoses of depression and emotionally unstable personality on 15 December 2015. There was no information contained in the letter which described any treatment administered to the claimant in respect of these conditions, and no information as to any recent contact with the practice for advice or support in relation to them.
6. This was treated as an application for reconsideration by the claimant, and not immediately dismissed. The respondent was therefore given the opportunity to respond to the application, and did so, opposing it in strong terms and pointing out that the claimant had previously been given clear information by the Tribunal as to the steps she required to take in order to allow her to continue with her claim.
7. A hearing on reconsideration was listed to take place by telephone conference call (due to the constraints in place during the coronavirus pandemic) at 9.55am on 14 April 2020. The claimant did not attend the hearing. Mr Munro attended on behalf of the respondent.
8. I waited until approximately 10.13am and concluded the hearing. I indicated to Mr Munro that in the absence of the claimant, and on the basis of the information presented by her, I was not minded to grant the application for

reconsideration, but that I would invite the clerk to contact the claimant to give her one final opportunity to explain her non-attendance, but with a deadline of 11.30am.

5 9. The clerk then emailed the claimant to invite her to communicate with the Tribunal by that time. I did not suggest to the clerk that she should attempt to telephone the claimant, as previous experience has shown that the claimant has not responded to such attempts to contact her, partly due to difficulties in having her phone cut off.

10. There was no reply from the claimant to that email.

10 11. As a result, the application falls. The claimant has clearly struggled to attend to this matter, and to present herself for several hearings. The medical information provided is very limited, and while it does confirm that in 2015 the claimant was diagnosed with depression and emotionally unstable personality, there is nothing available to me to confirm the extent to which  
15 such conditions currently affect the claimant, or the extent to which her failure to attend three separate hearings now can be explained by her medical conditions. I have noted the terms of the claimant's emails, which suggest that she is incapable of attending a Tribunal hearing, but the Tribunal must take into consideration the interests of justice not just for the  
20 claimant but also for the respondent, who has now attended three hearings without any progress being made in the case.

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12. The claimant has failed to advance her application for reconsideration, and has failed to provide any basis upon which that application should be granted. In my judgment, it would not be in the interests of justice to revoke

or vary the Judgment, and therefore the application for reconsideration is refused.

Employment Judge: Murdo Macleod

5 Date of Judgment: 02 June 2020

Entered in register: 02 June 2020

and copied to parties

10 **I confirm that this is my Judgment in the case of Middleton v Mitsubishi Electric Air Conditioning Systems Europe Limited and that I have signed the Judgment.**