



EMPLOYMENT TRIBUNALS

Claimant: Ms L Keating

Respondent: Jurys Inn Liverpool

UPON APPLICATION made by email dated 31 December 2020 to reconsider the judgment under rule 71 Employment Tribunals Rules of Procedure 2013 dated 16 December 2020 (sent to the parties on 17 December 2020) and without a hearing, but having considered the parties written representations,

JUDGMENT

1. The judgment that the claim was struck out is revoked.
2. Case management directions including the date of a Preliminary Hearing are enclosed.

REASONS

1. The claimant did not attend a preliminary hearing on 18 August 2020. A letter was sent to the claimant requiring her to explain why she had not attended, by 11 September 2020. On the 11 September 2020 the claimant emailed the Tribunal explaining why she had not done so.
2. On 7 November 2020 the Tribunal wrote to the claimant explaining that nothing further had been heard from the claimant and, as it was her responsibility to pursue her claims, required her to explain her position by 27 November. The letter explained that if she did not do so, her claim would be struck out.
3. On 25 November 2020 the claimant sent the Tribunal a number of emails providing materials she believed to be relevant to her claim.
4. On 16 December 2020 the claimant's claim was struck out because it was not being actively pursued, as I had not been informed about the claimant's emails of 25 November.
5. On 31 December 2020 the claimant challenged the decision to strike out her claim because she had responded to the Tribunal's letter within the timescale provided for by the Tribunal. The email was treated as a reconsideration application.

6. The parties both indicated that they consented to the reconsideration application being determined on the papers without a hearing being required. The respondent sent a lengthy email of 27 January 2021 explaining why they believed the Judgment should not be revoked or varied on reconsideration. The claimant sent emails of 14 January and 5 May explaining her position (neither of which were copied to the respondent).

7. Rule 70 provides that the Tribunal may reconsider any Judgment where it is in the interests of justice to do so. This decision must take account of the overriding objective, including ensuring that parties are on an equal footing, and avoiding unnecessary formality and seeking flexibility in proceedings. Whilst finality in litigation is important to all parties, the Tribunal must take into account all relevant facts and circumstances.

8. The claimant is unrepresented. Her claims include claims for disability discrimination and she relies upon mental impairments of stress, anxiety and depression, for which she has provided some evidence (albeit the respondent's observations on that evidence have been taken into account).

9. The claim was struck out because it was believed at the time that the decision was made that the claimant was not pursuing her claims. In fact, the claimant had sent in emails showing that she was pursuing her claims, even if the content of those emails reflected the fact that she was an unrepresented claimant with little (or no) understanding of the Tribunal process. That decision should therefore be revoked in the interests of justice, having been made in circumstances where the claimant's responses to the letter warning of strike out were not brought to my attention.

10. The respondent highlighted some valid concerns about the claimant's conduct of her claims and about the need for them to be clarified. It is important that the claimant copies all future correspondence with the Tribunal to the respondent, and she must comply with future case management orders. However, I do not agree that the claim would otherwise have been struck out for non-compliance with orders, and I do not agree that it is not possible for a fair hearing to take place (the delays highlighted in the respondent's email being the type of delays which are unfortunately currently common to the conclusion of Tribunal proceedings).

11. Accordingly, it is in the interests of justice for a judgment which was made in error without knowledge of the claimant's emails, to be revoked.

12. Appropriate case management orders have been made to progress the claim.

Employment Judge Phil Allen
17 May 2021

Case No: 2400250/2020

JUDGMENT SENT TO THE PARTIES ON
21 May 2021

FOR THE TRIBUNAL OFFICE