



EMPLOYMENT TRIBUNALS

Claimant: Mrs A Soares

Respondents: (1) Pockit Limited
(2) Rosie Hewat
(3) Lavona Bowers

Employment Judge Pritchard

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JUDGMENT

The First Respondent's applications dated 21 August 2020 and 1 April 2021 for reconsideration of:

1. Judgments dated 9 December 2019 (sent to the parties on 3 February 2020) and 3 March 2020 (sent to the parties on 20 March 2020)
2. Judgment dated 23 February 2021 (sent to the parties on 22 March 2021)

are refused.

REASONS

There is no reasonable prospect of the original decisions being varied or revoked, because:

Judgment dated 23 February 2021

1. With regard to the claim form being re-served at the First Respondent's registered address, it was properly addressed, prepaid and posted. The evidence now found on the tribunal file does not show that the First Respondent did not receive the claim form; it shows that it was returned from that address. The First Respondent has failed to provide a satisfactory explanation.
2. As for the delay making the application for reconsideration, the First Respondent seeks to repeat its arguments made at the preliminary hearing. The Tribunal considered those arguments and reached its decisions for the reasons set out in its judgment. Reconsideration is not a method by which a disappointed party can get a second bite of the cherry.
3. The Respondent has now presented draft grounds of resistance. The Tribunal recognised at paragraph 52 of its judgment that the First Respondent's advisors

had insufficient time to take instructions and prepare a detailed response to the claim, having only recently been provided with a copy of the claim form. Without hearing the case, the Tribunal is unable to determine the defence has any merit but recognises that the First Respondent has put forward arguable contentions.

4. However, this does not swing the balance of prejudice in the First Respondent's favour. The claim form was sent to the First Respondent's registered address in November 2019 and there is no credible explanation as to why the claim form was returned; the Tribunal infers that the First Respondent had the opportunity to read it and instruct its advisors at the time. The First Respondent provided no credible explanation why the remedy judgment was not received, despite the fact that it was served on its registered office. Nor did the First Respondent provide a convincing argument as to why its application was not made until four and half months after its solicitors notified the First Respondent of the remedy judgment on the website. The prejudice argued for in paragraph 40 of its application is unconvincing: if the First Respondent is so prejudiced, it would not have so delayed making its application.

Judgments dated 9 December 2019 and 3 March 2020

5. Rule 71 provides that an application for reconsideration shall be presented within 14 days of the date the decision is sent to the parties.
6. Whilst accepting that the liability judgment was sent to a previous registered address, the Tribunal would find it surprising, given the nature of the First Respondent's business that if it did not have mail forwarding arrangements. With regard to the remedy judgment, that was sent to the First Respondent on 20 March 2020. Its existence was noted and communicated to the First Respondent by its solicitors on 1 April 2020. The First Respondent delayed making its application until 21 August 2020. The First Respondent had provided no convincing reason for the delay.
7. The application is out of time and the Tribunal does not exercise its discretion to extend time under Rule 5.

Note

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Employment Judge Pritchard
Date: 19 April 2021