



EMPLOYMENT TRIBUNALS

Claimant: Mr M Miah

Respondent: Demi Power Limited

UPON APPLICATION made by letter dated 9 March 2021 to reconsider the judgment dated 9 March 2021 under rule 71 of the Employment Tribunals Rules of Procedure 2013, and without a hearing

JUDGMENT

The judgment striking out the claim is set aside and the claimant's complaint will continue.

REASONS

1. By order of the 10 February 2021 the claimant was required to provide further information by the 3 March 2021. The order was expressed in terms of an unless order.
2. The claimant provided information in an email of the 24 February 2021 but was not able to provide the full names of individuals he had referred to in the claim form as they were not known to him.
3. By email of the 7 March 2021 the respondent wrote to the tribunal advising there had been non compliance and requesting confirmation that the claims had been dismissed in accordance with the unless order
4. Employment Judge Lewis confirmed this was the case in a letter from the tribunal of the 9 March 2021 and a hearing scheduled for the 10 March 2021 was postponed.
5. By emails of the 9 & 10 March 2021 the claimant applied for a reconsideration. He stated that he had provided as much information as he was able in an email of the 24 February 2021. If he had used the wrong case number that was because he had used the case number on an email from the tribunal of the 10 February 2021 which referred to case number 3321773/2019.

6. Whilst the claimant had not been able to provide all of the further information requested he had explained why he was not able to do so. He did not copy his email of the 24 February 2021 to the respondent. It is not clear from the tribunal file whether it was seen by E J Lewis. He is correct that the tribunal also used the wrong case number in its letter to the parties on the 10 February 2021.

7. Rule 38(2) of the Employment Tribunal Rules 2013 provides that:

A party whose claim or response has been dismissed, in whole or in part, as a result of such an order may apply to the tribunal in writing, within 14 days of the date that the notice was sent, to have the order set aside on the basis that it is in the interests of justice to do so. Unless the application includes a request for a hearing, the Tribunal may determine it on the basis of written representations

8. It is clearly in the interests of justice to set aside the judgment striking out the claims. The claimant had done his best to comply with the unless order in his email of the 24 February. He had not failed to comply with the order. Greater prejudice will be caused to him if the claim is not permitted to proceed than to the respondent who still has the opportunity to defend it. The judgment is set aside and the claim will continue.

Employment Judge LAIDLER

1 June 2021

JUDGMENT SENT TO THE PARTIES ON

29 June 2021

N Gotecha

FOR THE TRIBUNAL OFFICE