



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms B Malekela

**Respondent:** West London Mental Health Trust

## JUDGMENT

The Claimant's application dated **22 July 2021** for reconsideration of the judgment sent to the parties on **8 July 2021** is refused.

## REASONS

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

1. At a hearing on **18 December 2020**, I gave a judgment and issued a case management summary with case management orders, which included disclosure of documents by **26 February 2021** and exchange of statements by **22 April 2021**.
2. By letter dated **21 February 2021**, parties were notified the final hearing would take place over 3 days, starting **12 July 2021**.
3. By emailed application (forwarding a chain of emails between the parties) dated **30 & 31 March 2021**, the Respondent sought an unless order for the Claimant to disclose documents, alleging that the parties had agreed extensions, but the Claimant had continued to miss the revised deadlines.
4. By email dated **12 April 2021**, in response to the Respondent's application, the Claimant stated she had secured a solicitor and sought an extension of time.
5. A letter was sent on my instructions dated **12 June 2021**, which said that I was considering striking out the claim and giving the Claimant until **21 June 2021** to object or to seek a hearing. I also ordered both parties to write by **28 June 2021** to confirm if the orders for bundle production and exchange of statements had been complied with, or were about to be complied with.
6. The Respondent's response to the **12 June** letter was sent **14 June 2021** and copied to the Claimant and a person who was assisting her. It stated that the Claimant had still not completed disclosure.
7. On **22 June 2021**, the Respondent wrote to the tribunal pointing out (correctly) that the Claimant had not responded to the tribunal by the 21 June deadline and had not contacted the Respondent either.

8. On **7 July**, no further correspondence having been received from the Claimant, I struck out the claim, and the judgment was sent to parties on **8 July 2021**.
9. On **22 July 2021**, the Claimant sought reconsideration. She gave 3 reasons:
  - a. Being a lay person and not understanding the procedure
  - b. Suffering stress
  - c. Not checking her emails due to stress
10. In support, she attached a GP letter from 3 March 2020 and a Statement of Fitness for the period of 12 May 2020 to 25 May 2020. In other words, both documents are from more than 12 months ago, though I proceed on the assumption that the Claimant still has the stress-related symptoms described in those two documents.
11. I am satisfied that what the Claimant needed to do to disclose documents was adequately explained at the hearing in December 2020, in the orders after that hearing, and in the correspondence from the Respondent's representatives to the Claimant.
12. I am satisfied that the Claimant knew that there was a hearing and that there were deadlines to comply with orders. She sought extensions of time first from the Respondent and later from the tribunal, stating that she would comply with the orders provided she was given more time. However, she did not comply by the March dates which the Respondent agreed to, or shortly after her 12 April 2021 letter stating she now had a solicitor. She did not comply at all.
13. While stress can be a factor which slows down compliance with orders, the Claimant did not seek a postponement of hearing on health grounds and nor would the medical evidence supplied on 22 July, 10 days after the hearing had been due to start, have been sufficient for a postponement to be granted.
14. While stress can be a factor which makes people nervous about checking their emails, the Claimant knew about the orders, and knew that the hearing was due to start on **12 July 2021**. She knew that the Respondent was chasing compliance and had made an application to the tribunal. She also knew that she had made an application (on 12 April) to tribunal. Regardless of when she saw the strike out warning of 12 June 2021 (or the Respondent's comment of 14 June), she had a reasonable opportunity to reply by 21 June (as she ought to have checked her emails before then) and did not even reply by 7 July (or, indeed, before 22 July).
15. The decision to strike out the claim was correct.

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Employment Judge Quill

Date: 11.08.21

JUDGMENT SENT TO THE PARTIES ON

.....2/9/2021.....

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FOR THE TRIBUNAL OFFICE