



EMPLOYMENT TRIBUNALS

Claimant: Mr Daniel Marsden

Respondent: Pan Motorcycles Ltd

UPON APPLICATION made by letter dated 13th August 2021 and received by the Tribunal on 17th August 2021, to reconsider the judgment dated 2nd August 2021 and sent to the parties on 3rd August 2021 under rule 71 of the Employment Tribunals Rules of Procedure 2013, without a hearing:

JUDGMENT

The Claimant's application for reconsideration of the judgment sent to the parties on 3rd August 2021 is refused.

REASONS

1. There is no reasonable prospect of the original decision being varied or revoked, because the Claimant is seeking to re-argue issues already considered.
2. On 2nd August 2021, prior to the hearing, the Respondent sought a postponement of the hearing by e-mail. The basis of the postponement request was substantially the same as the reason why reconsideration is now sought, namely that the Respondent did not have sufficient time to attend the hearing and present witnesses as he had only found out about the hearing date on the morning of the hearing.
3. I considered the request for a postponement on 2nd August 2021 before proceeding with the hearing. I refused the postponement as I found that the Respondent was notified of the hearing date and also found that it was not in furtherance of the overriding objective to postpone the hearing.

4. The reasons for finding that the Respondent was notified of the hearing date and was, or should have been, aware of it and that it was not in furtherance of the overriding objective to postpone were as follows:
5. The hearing date of 2nd August 2021 at 2pm was clearly set out on the Notice of Claim which was sent to the Respondent on 6th November 2020 together with the Claim form. The Respondent demonstrably received this notice as it filed an ET3 Response to the Claim Form within the time specified in the Notice.
6. In January 2021 the Tribunal sent an acknowledgment of acceptance of the Response dated 7th January 2021 to the Respondent's e-mail address noting that if the parties had not already been informed of the hearing date they would be written to shortly to notify the hearing date. No further letter was sent as the hearing date had been notified.
7. The Tribunal sent notification that the hearing would take place by CVP to the Respondent by e-mail at the same e-mail address previously used by the Tribunal. The Respondent acknowledges receipt of this correspondence.
8. Enquiries of the Tribunal's administration systems were unable to trace any e-mail sent by the Respondent to the Tribunal requesting confirmation of the hearing date.
9. At the latest the Respondent was aware of the hearing date on the morning of 2nd August 2021, before the hearing took place at 2pm. The Respondent had the opportunity to attend to make the application for a postponement orally at the hearing or to participate in the hearing but chose not to do so.
10. The Claimant was prepared for the hearing and wished to proceed.
11. The Respondent had failed to comply with the remainder of the other directions in the Notice of Claim (other than the direction to serve a response) in that it sent no documents or witness statements to the Claimant, although the Claimant had sent his documents and statements to the Respondent as he was required to do. This did not prompt the Respondent to engage with the proceedings.
12. During the hearing, consideration was given to the contents of the ET1, which disputed the contents of the Claim form in detail and asserted that the Claimant account was distorted and in parts untrue and gave reasons for this assertion.
13. No new material facts or evidence have been put forward in the request for a reconsideration that were not in either the request for the postponement or the ET3. There are therefore no reasonable prospects of the original decision being varied, particularly as the hearing date was clearly notified to the Respondent in November 2020 and there had been no engagement by the Respondent with the proceedings save for the filing of the Response form. There are no special reasons why the matter should be reconsidered when there are no reasonable prospects of the original decision being varied.

Employment Judge L Clarke
Date: 12 September 2021

Sent to the parties on
Date: 14 September 2021

Public access to employment tribunal decisions

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