



EMPLOYMENT TRIBUNALS  
London Central Region

26/10/21

Claimant: Mr S Parekh

Respondents: The Governing Body of Chelsea Hospital School  
The Royal Borough of Kensington and Chelsea

JUDGMENT

1. The Claimants application by email dated 28/9/21 (supplemented by his emails dated 4/10/21) for reconsideration of the judgment dated 14/9/21 striking out the claims, is refused under Rule 72.

REASONS

1. The Claimant refers to a number of medical issues, but has failed to provide any medical evidence to support an argument that he was incapable of complying with the order and meeting deadlines.
2. Taking his statements about his ill-health at their highest, he suffers from depression and anxiety, diabetes and eye-problems, and had a therapy session booked at 3pm on 10/9/21 - ie 3 hours after the deadline for the service of his witness statement, and had various other medical appointments booked in the days and weeks following that deadline. I do not regard these engagements as precluding or preventing the Claimant from serving a reasonable witness statement on time.
3. Unfortunately, many people, including Tribunal claimants, do suffer from depression and other ill-health. The Tribunal is experienced in providing support to vulnerable claimants and litigants in person. However, such persons who embark on litigation cannot be given unlimited allowances, especially when they start to impinge on the fairness of the process to the other parties. The problems faced by litigants in person and medical and similar issues cannot be accepted indefinitely as an excuse for non-compliance with directions and unless orders. I had already taken into account the fact that the Claimant was a litigant in person and assumed in his favour that he was suffering a degree of stress and difficulty coping with the Tribunal process, when I previously granted him extensions and additional time.
4. Even making allowance for the Claimant's health problems as he now describes them, given the imminence of the trial, unfortunately it was not reasonably possible nor would it have been just to the Respondent to go on extending time and condoning the Claimant's failure to comply with reasonable directions.
5. Furthermore, as explained in paragraphs 10 and 11 of the reasons for the judgment dated 14/9/21, the Claimant's witness statement when it was served was not a reasonable witness statement for purposes of the trial.
6. The Claimant refers to his last-minute discussions with the Respondents' solicitors on 10/9/21. I have read what the Respondents' solicitors have written about this in their email of 29/9/21, which I have no reason to doubt, and which version of events the Claimant has not subsequently challenged. I accept that Ms Bann, more than 14 minutes before the deadline (12 noon on 10/9/21) told the Claimant to serve his witness statement on her firm in accordance with my previous unless Order, and that she did not tell him to spend that time filing it with the Tribunal, (which had not been ordered). In any event what the Respondents' solicitors may have said or done is of secondary importance because I had made a clear unless order and it

was that which the Claimant should have complied with, rather than worrying about what the Respondents' solicitors were doing.

7. The Claimant's application does not excuse his failure to reasonably engage with the preparation of his claim over a 12 month period to the disadvantage of the Respondents.
8. The Claimant has not explained why over the course of the whole claim instigated on 14 August 2020 and after attending two preliminary hearings on 17 December 2020 and 1 April 2020 he was not ready to exchange witness statements by the deadline of 1 September and then the extended deadline on 10/9/21. He has not explained why he did not engage in agreeing a bundle at a reasonable time and why he served a significant number of additional documents on the Respondents after serving his witness statement late.
9. Furthermore, the application to reconsider deals only with the failure to comply with the last unless order. As I made it clear in the strike-out decision, had I not had reason to strike out for breaching the order, he would have done so because of the Claimant's unreasonable conduct and inability to have a fair trial.
10. There is no reasonable prospect of the strike-out Judgment being varied or revoked.

J S Burns Employment Judge  
London Central  
26/10/2021  
For Secretary of the Tribunals:  
Date sent to parties: 27/10/2021

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