



EMPLOYMENT TRIBUNALS

Claimants: Mr J Apple

Respondent: Fibro TX

Heard at: Watford

On: 11 November 2021

Before: Employment Judge R Lewis

Appearances

For the claimant: Written representations
For the respondent: Not required to participate

JUDGMENT

The claimant's application for reconsideration of the Judgment to strike out this claim is refused.

REASONS

1. Following a hearing on 25 September 2020 before Employment Judge Loy these proceedings were struck out for Reasons set out in a Reserved Judgment sent to the parties on 3 March 2021. The judgment was signed by Regional Employment Judge Foxwell in accordance with rule 63 in the unavailability of Judge Loy.
2. On 13 March the claimant wrote to the tribunal. His letter said, 'Reconsideration is sought but cannot be made without a copy of the data released to me.' The letter said that it had not been copied to the respondent in compliance with rule 92.
3. In the same letter, the claimant asked for disclosure of any communications between Judge Loy and Judge Foxwell; for a transcript of the hearing in September 2020; and set out what appeared to be a recent medical diagnosis, which the claimant wished to have kept confidential from the

respondent (which he wrote was his reason for not copying his letter to the respondent).

4. On 24 March the claimant wrote to the tribunal to state that Judge Loy in effect did not in his Reserved Judgment address questions of disability or reasonable adjustment.
5. On 6 April Regional Judge Foxwell wrote to the claimant. He said that no transcript of the September hearing is available as the proceedings were not recorded; and that there were no communications between Judge Loy and himself (and that they would not be disclosable in any event). In the same letter he told the parties that I was appointed under rule 72(3) to deal with the reconsideration application.
6. Also on 6 April, of my own initiative, I wrote to the parties to extend time for the claimant to set out his grounds of application to 21 April. I did so to allow time for the claimant to follow up on his email of 3 March, in light of Judge Foxwell's letter (of 6 April).
7. Due to oversight by office staff, the tribunal's file was then not referred to me until late October. I was informed then that there had been no further correspondence from the claimant. I was concerned that there might have been an office error or IT issue. Of my own initiative and in the interests of justice I asked tribunal staff to inform the parties that I extended time for the claimant to set out his grounds of application to 3 November.
8. I am advised that the claimant has not responded. I therefore consider the application for reconsideration entirely on the contents of the claimant's emails of 3 and 24 March. To the latter the claimant attached a poor copy of a medical diagnosis which he wrote was a disability, and which I understand him to say required reasonable adjustment. The tribunal's file copy did not show the date of diagnosis.
9. I have considered the application in accordance with rule 72. In my judgment, the application for reconsideration has no reasonable prospect of success.
10. The claim for a declaration of employment status has been struck out as a matter of law, on which the claimant has made no new submission.
11. On the claim for race discrimination, Judge Loy found (a) that the discrimination claim was presented about seven months out of time; and (b) that during that seven month period the claimant brought eight other sets of proceedings against the respondent. Judge Loy found that the claimant showed familiarity with the legal process throughout 2019. That finding stands, irrespective of the claimant's health at the time, or any subsequent diagnosis of it.
12. I can see no reasonable prospect or interest of justice which requires a reconsideration hearing. The application is refused under rule 72(1).

Employment Judge R Lewis

Date:12/11/2021

Sent to the parties on:

3/12/2021

For the Tribunal:

N Gotecha