



THE EMPLOYMENT TRIBUNALS

Claimant: Mr D Nichols
Respondent: Prima Nova Limited
Heard at: Newcastle upon Tyne Hearing Centre
On: Tuesday 25th January 2022
Before: Employment Judge Johnson

JUDGMENT ON APPLICATION FOR RECONSIDERATION

1. The claimant's application for a reconsideration of the strike-out judgment promulgated on 20th January 2022, contained in his letter dated 21st January 2022 is refused. The application for reconsideration has no reasonable prospects of success and it is not in the interests of justice for there to be a reconsideration.

REASONS

1. By a claim form presented on 18th October 2021, the claimant brought complaints of unfair dismissal, unlawful discrimination on the grounds of sexual orientation and unauthorised deduction from wages, relating to his employment with the respondent between 18th May 2021 and 15th June 2021. The respondent failed to present a response to those claims.
2. By a letter dated 30th November 2021 the employment tribunal informed the claimant that he did not have sufficient length of service to present a complaint of unfair dismissal. By notice dated 8th December the parties (including the claimant) were informed that there would be a preliminary hearing by telephone on 17th December at which the tribunal would consider the claims, the lack of response and whether any default judgment should be entered in favour of the claimant and, if so, whether any compensation should be awarded.
3. The claimant failed to attend the hearing on 17th December. The claimant failed to inform the tribunal that he would not be attending. By orders made on 17th

December, the claimant was ordered to write to the tribunal and the respondent within fourteen days explaining why he did not attend the hearing and why he did not warn the tribunal that he was not going to attend the hearing. The claimant was warned that if he failed to provide an explanation or any adequate explanation then the tribunal may strike out the claim on the grounds that it was not being actively pursued.

4. By letter dated 3rd January the claimant wrote to the tribunal stating as follows:-

“I’m still very depressed and can’t deal with this information right now can you please extend these deadlines or explicitly explain in a single email without documents what is required of me as this is a fucking piss take.”
5. The claimant sent a further letter to the tribunal on 3rd January stating as follows:-

“I have no memory of a change of correspondence, please do not send me weird shit with typos any more if you are going to act like you are the one that should be deciding what happens about these issues.”
6. By letter dated 5th January the tribunal wrote to the claimant stating as follows:-

“Employment Judge Sweeney has directed that he is giving the claimant one more opportunity to say why his claim should not be struck out. He must read the orders made by Employment Judge Jeram and sent to the claimant on 22nd December 2021. The claimant is to respond by the 19th of January 2022.”
7. On 19th January, the claimant replied in the following terms:-

“I’ve already said I was depressed and that is why whatever you wanted to happened didn’t happen. Please stop making me repeat myself, you’re wasting my time.”
8. On 20th January 2021 the tribunal issued a judgment striking out the claims and giving the following reasons:-
 - (i) By letter dated 5th January 2022 the tribunal gave the claimant an opportunity to make representations or to request a hearing as to why the claims should not be struck out because he failed to attend the hearing listed on 17th December 2021 and failed to inform the tribunal that he would not be attending. The claimant has failed to comply with the tribunal’s direction that he must provide an adequate explanation for his failure to attend the hearing on 17th December 2021. The claimant’s correspondence to the tribunal is vexatious and the tribunal considers it to be in the interests of justice to strike out the claims.
9. By letter dated 21st January 2022, the claimant applied for a reconsideration in the following terms:-

“You could not conclude vexatious intent via email without specifically clarifying and discussing the vision and values of both parties with both parties, formulating a government-regulated judiciary system that deals with relevant issues, and ensuring that the alleged impingement spanned a greater sample size than the number of people who read that e-mail and the number of e-mails received. Therefore I would request that you please place this e-mail in the correct basket for the continuation of my claim as this will be the third time I’ve stated depression is my reason for being unable to attend the preliminary hearing and I have also requested a descriptor of what a response in full may entail as was requested by the employment tribunal in previous correspondence. I would also request that you please do not make any further unsolicited decisions without first clarifying my intent as this will only further delay my claim. Apologies for any grammar mistakes in this e-mail.”

10. The tribunal is not satisfied that the claimant has provided any, or any adequate, evidence to support his contention that he was unable to attend the preliminary hearing because he was depressed. The tone and language used in the claimant’s is clearly vexatious. The claim was properly struck out and it is not in the interests of justice for there to be a reconsideration.

EMPLOYMENT JUDGE JOHNSON

**JUDGMENT SIGNED BY EMPLOYMENT
JUDGE ON
10 February 2022**

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