



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms PMG Douglas

**Respondents:**

1. Morgan Hunt UK Limited
2. Hays Specialist Recruitment Limited
3. Protocol National Ltd
4. Capita PLC
5. CER &/or Affinity Workforce Solutions Ltd

## RECONSIDERATION JUDGMENT

The Judgment striking out the claim is confirmed, although the reasons for striking it out differ from those contained in the Judgment sent to the parties on 17 March 2022.

## REASONS

1. This case was presented to the Employment Tribunal in Scotland on 22 July 2021. By a letter of 24 September 2021 the claimant was informed that the case had been transferred to the North West region of the Employment Tribunals in England and Wales.
2. The claimant is prohibited from continuing these proceedings in England without the permission of the High Court following an order made in the High Court sealed on 24 July 2007 in case number CO/3134/2006.
3. By a letter of 18 October 2021 the claimant was informed that the proceedings were stayed until 31 December 2021 to allow the claimant time to pursue such an application. She was informed that the case might be struck out if she did not do so.
4. The claimant replied on 19 October 2021 asking for that decision to be varied.
5. The decision to stay the claim was not varied. By a letter of 10 January 2022 the claimant was given until 31 January 2022 to provide evidence that such an application had been made, or to make any representations about the proposal to strike out her case, or to request a hearing.
6. There was no reply.

7. As a consequence, the claim was struck out under rule 37(1)(d) by a written Judgment sent to the parties on 17 March 2022.

8. On 30 March 2022 the claimant applied for reconsideration of that judgment. She said that she had misread the letter of 10 January 2022, and failed to notify the Employment Tribunal that she had made an application to the High Court for permission to continue with these proceedings. Her application for reconsideration attached an order from the High Court sealed on 26 January 2022 refusing permission to litigate this case.

9. Rule 70 of the Employment Tribunals Rules of Procedure 2013 provides for a judgment to be reconsidered where it is necessary in the interests to do so. On reconsideration, the original decision may be confirmed, varied or revoked.

10. I accept from the claimant's application that the reasoning upon which the decision to strike out her claim was made was based upon the misapprehension that she had not pursued an application to the High Court for permission to pursue this case. Had such an application been made, but not yet determined, I would have revoked my judgment.

11. However, the application has been determined and permission to pursue this case has been refused. It follows that the case should remain struck out, not under rule 37(1)(d) (because I accept the claimant has sought to pursue it) but under rule 37(1)(a) (because there is no real prospect of success where the claim cannot proceed) and/or rule 37(1)(e) (because a fair hearing of the claim is no longer possible given that it cannot proceed). Effectively this litigation is now an abuse of process.

12. The judgment striking out the claim is therefore confirmed, albeit for reasons which differ from those in the previous Judgment.

Regional Employment Judge Franey  
Date: 29 April 2022

JUDGMENT AND REASONS SENT TO THE PARTIES ON  
29 April 2022

FOR THE TRIBUNAL OFFICE

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