



EMPLOYMENT TRIBUNALS

Claimant Mr Christopher Novaes
Respondent Royal Mail Limited
Heard: By video **On:** 12 May 2022
Before Employment Judge Fowell
Representation
Claimant In Person
Respondent Ms Zakia Tahir, Solicitor, of Weightmans LLP Solicitors

JUDGMENT ON RECONSIDERATION

1. The application for a reconsideration of the strike out order made on 4 January 2022 is refused.

REASONS

2. This claim, which arises out of two incidents at work in December 2020, was struck out as a result of :
 - a. the claimant's failure to take part in the preliminary hearing on 17 November 2020; and
 - b. his failure to provide written reasons within seven days of that hearing for his failure to attend, and confirmation that the claim is pursued.
3. The strike out order was sent to the parties by email on 17 January 2021 and Mr Novaes responded the next day asking for a reconsideration of the decision.
4. It follows that after submitting his claim form on 21 April 2021 he took no part in these proceedings until making this application for a reconsideration, a period of nine months.
5. On the claim form he indicated that his preferred method of communication was by email and he received notification of this hearing by that means.

6. Hence, in that period of nine months he has not responded to the following emails to his account:
 - a. the notice of the preliminary hearing, sent on 28 August 2021;
 - b. the order sent out following that hearing on 26 November 2021;
 - c. the email from the respondent on 3 December 2021 chasing him for his written reasons; and
 - d. the email from the respondent on 17 December 2021 to the Tribunal, copied to him, asking for a Strike Out Order on the basis of his failure to respond.
7. Further, he has still not provided any explanation for his failure to attend the previous preliminary hearing.
8. At this hearing Mr Novaes explained that he has now been dismissed by the respondent for other reasons, although he believes that this was connected with the fact that he brought a claim against Royal Mail. At the time of the previous hearing he was suspended and had had a period off sick with stress. No records were produced to confirm the dates in question although the respondent accepted that he had been suspended and dismissed.
9. There was however no basis to conclude that Mr Novaes was medically unable to deal with email correspondence over such a long period, and this contrasts with his prompt response to the strike out order. No medical or other documentary evidence was produced in support of the application.
10. Mr Novaes said that he has since been dismissed, on 25 February 2022, and that he was suspended last October, before the previous preliminary hearing. Despite this there has been no application to amend this claim to include his suspension and / or dismissal as acts of discrimination or victimisation. However, on the basis that Mr Novaes was dismissed on 25 February 2022 he has until 24 May 2022 to contact ACAS and commence early conciliation if he wishes to pursue a claim arising out of his dismissal.
11. In all the circumstances, the interests of justice do not require that the strike out order is set aside.

Employment Judge Fowell: Date 12 May 2022

JUDGMENT & REASONS SENT TO THE PARTIES ON
27 May 2022 By Mr J McCormick