



EMPLOYMENT TRIBUNALS

Claimant: Miss J Hawkins

Respondent: Londis Retail Force UK Ltd

RECONSIDERATION JUDGMENT

The claimant's application dated 17 May 2022 for reconsideration of the judgment sent to the parties on 3 May 2022, is refused.

REASONS

1. An application for reconsideration is an exception to the general principle that (subject to appeal on a point of law) a decision of an Employment Tribunal is final. The test is whether it is necessary in the interests of justice to reconsider the judgment (rule 70).
2. The Court of Appeal in **Ministry of Justice v Burton [2016] EWCA Civ 714** has emphasised the importance of finality, which militates against the discretion being exercised too readily.
3. It is recorded on Companies House that the respondent company was dissolved on 22 June 2021.
4. Where a company has been dissolved, there is no longer a legal entity in existence against which proceedings can be pursued.
5. On 14 September 2021 the Tribunal wrote to the claimant's representative explaining that the claim could only proceed if the company was restored to the register of companies. It was explained that the claim would be considered six months after the letter, which provided time for such an application to be made and pursued, if the claimant wished to do so. The claimant was asked to inform the Tribunal if she decided to apply to have the company restored to the register.
6. The claimant not having informed the Tribunal that she had applied to restore the respondent company to the register, on 8 April 2022 the Tribunal gave the claimant an opportunity to give written reasons why the claim should

not be dismissed as it had not been actively pursued. The claimant did not do so.

7. On 28 April 2022 a Judgment was made striking out the claim as it had not been actively pursued, which was sent to the parties on 3 May 2022.

8. On 17 May 2022 the claimant's representative made a reconsideration application. In that application it was confirmed that the claimant had not applied to have the respondent company restored to the register. However, it was stated that the claimant had evidence which showed that the respondent had paid wages after it had been dissolved.

9. On 9 June 2022 the Tribunal informed the claimant's representative that I was intending to consider the reconsideration application on the papers without a hearing, and the parties were given 21 days to provide further written representations (or to set out their view if they believed a hearing was required).

10. On 20 July 2022 the claimant's representative responded and agreed that the application could be determined without a hearing. No further representations were made.

11. Under rule 72(2) of the Employment Tribunal rules of procedure I have determined that a hearing to consider the application to reconsider is not necessary in the interests of justice.

12. As the company has been dissolved and remains dissolved, there is no legal entity against which the proceedings can be pursued or against which a Judgment could be entered. The Tribunal has no power to restore a company to the register. Without such restoration, the case cannot proceed.

13. The claim was not actively pursued following the 14 September 2021 letter, and it was correct that the claim was accordingly dismissed. As the application for reconsideration acknowledged, the claimant had not applied to restore the respondent company to the register. Even were the claimant's assertions about the operation of the respondent to be correct, the Tribunal cannot issue a Judgment against the respondent unless it exists at the time (having been restored to the register). The claimant has not actively pursued restoring the respondent to the register.

14. I have considered the application made under rule 71 of the Employment Tribunal rules of procedure and have decided that it is not in the interests of justice for the Judgment to be reconsidered, varied or revoked.

Employment Judge Phil Allen

9 August 2022

Case No: 2402374/2021

JUDGMENT SENT TO THE PARTIES ON

10 August 2022

FOR THE TRIBUNAL OFFICE