



EMPLOYMENT TRIBUNALS

Claimant: Ms M Richards

Respondent: (1) Low Cost Vans Limited
(2) Crownhawk Properties Limited

JUDGMENT

The claimant's application dated 26 August 2022 for reconsideration of the judgment sent to the parties on 16 August 2022 is refused.

REASONS

1. There is no reasonable prospect of the original decision being varied or revoked, because the decision to strike out the second claim brought by the Claimant is correct in the view of the Judge.
2. The Claimant issued a claim under case reference 1600760/22 (while legally represented) against the Second Respondent for automatic unfair dismissal and pregnancy discrimination on 28 June 2022. This claim has not been withdrawn and remains live. The Claimant, while legally represented, then issued a second claim against both Respondents in this case on 29 June 2022. This claim is a duplicate of the first claim.
3. The Claimant's representatives failed to respond to a strike out warning that the second claim would be struck out for abuse of process. The warning adopted the standard wording of the Tribunal and gave the standard 7 days to respond. Employment Judge Sharp, due to the lack of response, struck out the second claim and the judgment was promulgated on 16 August 2022.
4. The Claimant's representatives seek a reconsideration saying that they did not respond due to annual leave. No explanation has been given how a firm of solicitors found itself in a position where no-one could deal with critical correspondence from a tribunal. The Claimant's representatives accept that no criticism of the strike out judgment is made as the second claim is a duplicate. No explanation why the first claim was not withdrawn or amended has been made. All that is advanced is that the Second Respondent is not the employer of the Claimant, a matter that she or her representatives knew shortly after issuing the first claim; in fact, one day later.

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5. When duplicate claims are issued, the later claim is the abuse of process. This means the second claim brought by the Claimant. If the Claimant wished to withdraw the first claim, or amend it, it remains an option available to her to seek, but it is not appropriate to permit the second claim to be conducted while the first claim remains. Even when making the reconsideration application, the Claimant's representatives did not expressly withdraw the first claim. In addition, the explanation given by the Claimant's representative is unpersuasive; they are at fault for not responding to the strike out warning. They have not explained why they have not taken the route to correct the first claim and amend the Respondent under the Employment Tribunal Rules of Procedure, but instead have referred to "discontinuance", a term applicable to civil proceedings under the Civil Procedure Rules.

Employment Judge C Sharp
Date: 7 September 2022

JUDGMENT SENT TO THE PARTIES ON 9 September 2022

FOR THE TRIBUNAL OFFICE Mr N Roche