



EMPLOYMENT TRIBUNALS

Claimant: Mrs S Iordache
Respondent: Aurora Knight Limited
(in creditors voluntary liquidation) (1)
Syed Hassan Ejaz (2)

Considered on the papers
On: 19 August 2022
Before: Employment Judge Adkinson sitting alone

RECONSIDERATION JUDGMENT

The application of the second respondent for reconsideration of the judgment against him and which was sent to the parties on 19 May 2022 is rejected.

The applications of each respondent that judgments against them be stayed are rejected.

REASONS

By a judgment sent to the parties on 19 May 2022, the Tribunal ordered the respondents to pay to the claimant various sums of money. The judgments arose because each respondent failed to present a response in time.

On 12 July 2022 the second respondent wrote to ask the judgment to be reconsidered. The application did not seek an extension of time to present a response, was not accompanied by a proposed response and gave no explanation for the delay.

Rule 71 provides an application for reconsideration must be made within 14 days of when the relevant judgment is sent to the parties. The application is out of time. No reason has been advanced to explain the delay or justify an extension of time. I do not accept the argument that he was unaware because he ceased to be a director on 10 October 2021 is satisfactory because it does not set out when the judgment came to his attention, how it came to his attention or why it would not have come to his attention sooner. The papers disclose no other reason to justify the extension of time under **rule 5**. It is not in the interests of justice to extend time in the circumstances. The application therefore is dismissed on this ground.

In any case, even if the reconsideration were to be considered, the fact would remain the second respondent had not presented a response and so would be prohibited from

taking part without permission. There is no application to say why he should be permitted to take part in any hearing to determine the remedy to which the claimant was entitled. In such circumstances if the judgment were to be reconsidered and set aside then the second respondent would still be unable to take part.

Even if he were permitted to take part, in the absence of a response he would not be entitled to assert anything inconsistent with him being liable as the ET1 asserts (see of **Limoine v Sharma [2020] ICR 389 EAT**). His argument that the judgment should be reviewed because he is not liable as employer is inconsistent with the claim and cannot be pursued (absent the Tribunal accepting a response that sets out this defence). Therefore there is no reasonable prospect of the Tribunal varying or revoking its earlier decision on reconsideration because the argument is not one that can succeed.

There is no application under **rule 20** to extend time for presenting a response, so I have not considered that possibility.

I note the first respondent entered Creditors' Voluntary Liquidation on 2 March 2022. While there is a request from the liquidator to "cease any further action", there is no request for reconsideration from the first respondent. I note however nothing in the **Insolvency Act 1986** has the effect that creditors' voluntary liquidation restricts proceedings against such a company. Therefore I consider there is no basis to reconsider the judgment against the first respondent either.

The application to stay the judgments is also rejected. Because the reconsideration has been rejected there is no reason for a stay of valid judgments against the second respondent. The **Insolvency Act 1986** and regulations under it provides what Parliament and the Secretary of State deem to be sufficient regulation of enforcement of judgments against the first respondent and no good reason is advanced for something above or beyond that.

Employment Judge Adkinson

Date: 19 August 2022

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE

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