



EMPLOYMENT TRIBUNALS

Claimant: Mr G Pennington

Respondents: 1.M Clayton Transport Limited
2. Pegasus Couriers Scotland Limited

RECONSIDERATION JUDGMENT

The second respondent's application dated 3 October 2022 for reconsideration of the judgment sent to the parties on 30 September 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. A previous rule 21 Judgment issued against the second respondent, was reconsidered and revoked (as it applied to the second respondent) after the second respondent stated that the claim form had never been received.
4. The claim was re-served on the second respondent using the registered office address for the second respondent as recorded on companies house. The notice of claim was sent on 9 May 2022 and that gave the second respondent until 6 June 2022 to respond.
5. No response was received.
6. On 20 July 2022 a letter was sent to the second respondent using the registered office address for the second respondent as recorded on companies house informing it that no response had been received and a Judgment may now be issued.

7. An email was received sent on behalf of the second respondent on 23 September 2022 in which it was confirmed that it was now in receipt of all correspondence. It did not provide a completed response form and therefore was not in a form which could be accepted in accordance with the Employment Tribunal rules of procedure (rules 16(1) and 17(1)(a)). It also contained no application for an extension of time for such a response to be submitted. Such an application, in any event, must be accompanied by a draft response form (rule 20(1)).

8. Judgment was issued, no response having been submitted and there being no valid application for an extension of time outstanding.

9. The claimant now applies in an email of 3 October 2022, for the Judgment issued to be reconsidered. No draft response form has been submitted with that application. That email does contain an application for an extension of time to be granted, but that application could not have been considered in any event as a draft response form has not been submitted.

10. The application for reconsideration has been made, in summary, due to the lack of correspondence and because the second respondent says that the application for an extension of time was justified.

11. The correspondence has been sent to the second respondent using the address of its registered office. The second respondent did not submit a response within the time required and therefore it was appropriate for a rule 21 Judgment to be issued. In any event, by 23 September 2022, the second respondent confirmed that it was in receipt of all correspondence. The second respondent did not, and still has not, complied with the requirements if it wished to make an application for an extension of time. It did not and has not provided a draft response on the form as required.

12. There is accordingly no reasonable prospect of the original decision being revoked. It is not in the interests of justice for the Judgment to be revoked. The application is refused.

Employment Judge Phil Allen
12 October 2022

JUDGMENT SENT TO THE PARTIES ON
13 October 2022

FOR THE TRIBUNAL OFFICE