



EMPLOYMENT TRIBUNALS

Claimant: Mr K Chiweda

Respondent: NHS England

JUDGMENT

Rule 70 the Employment Tribunal Rules of Procedure 2013

The judgment on withdrawal dated 29 March 2022 has been reconsidered on the application of the claimant and is revoked.

REASONS

1. On 2 December 2021 the claimant emailed the respondent's representative stating that he had decided to not pursue his claim.
2. The respondent's representative copied that email to the tribunal and asked the claimant to confirm his intentions.
3. On 9 February 2022 the tribunal wrote to the claimant asking him to confirm within seven days whether he wished to withdraw his claim and that unless it heard to the contrary the hearing listed for 27 February 2022 would proceed.
4. On 22 February 2022 respondent's representative made an application for the claim to be struck out or an unless order issued due to the failure of the claimant to comply with directions.
5. On 29 March 2022 the London South Legal Officer prepared a judgment dismissing the claim further to withdrawal by the claimant. That judgment was sent to the parties on 17 May 2022.
6. On 10 June 2022 the claimant wrote to the tribunal stating that he did not intend to withdraw his claim and that he was awaiting release of medical records from his GP.
7. The tribunal wrote to the claimant, on the instruction of Judge Tsamados, informing him of how he could challenge the judgment either by way of reconsideration or appeal.

8. On 15 July 2022 the claimant requested reasons for the judgment to enable him to appeal in response to which he was informed, on the instruction of Judge Hyams-Parish, that as the claim had been dismissed upon withdrawal there were no reasons available
9. On 10 August 2022 the claimant wrote to the tribunal again referring to the delay by his GP in releasing medical records, but that they had now been released to the respondent's solicitors, and that he contested that he had made a written application to withdraw the claim. He also referred to having been unwell and admitted to hospital for six weeks.
10. On instruction of Judge Andrews the claimant was requested to clarify the periods of his admission to hospital and produce documentary evidence of the same. The claimant did so by letter dated 5 September 2022. The enclosed referred to a period of hospitalisation between 16 April and 6 June 2022 due to severe depressive episode with psychotic symptoms.
11. On the instruction of Judge Andrews on 4 October 2022 the tribunal wrote to the parties confirming that the claimant's letter dated 10 June 2022 was being treated as an application for a reconsideration of the judgment. The respondent was asked to give written reasons by 11 October 2022 if their position was that the judgment should not be reconsidered and both parties were asked to write by 18 October 2022 setting out their views on whether the application could be determined without a hearing.
12. No reply to either matter has been received from the respondent. The claimant wrote to the tribunal on 17 October 2022 confirming that in his opinion a hearing was not necessary and that the reasons for his application were the delay in the release of medical records, that he had been unwell and had a period of hospitalisation and that he had not withdrawn his tribunal claim.
13. In all the circumstances, in particular the claimant's period of illness and his underlying medical condition, I consider it in the interests of justice to reconsider and revoke the judgment dated 29 March 2022. I am not satisfied that the claimant fully intended to withdraw his claim.
14. The matter will be listed for a case management discussion so that next steps can be agreed with the parties.

Employment Judge Andrews
Date: 24 October 2022