



## EMPLOYMENT TRIBUNALS

### **Claimant**

Mr B Lipinski

### **Respondents**

Beacon Communication Services Limited

**Employment Judge Dawson**

# DECISION ON APPLICATION FOR RECONSIDERATION

1. The claimant's application for reconsideration of the judgment dated 1 November 2022 is refused.

## REASONS

1. By email dated 14 November 2022, the respondent applied for reconsideration of the judgment dated 1 November 2022. The email stated "in accordance with Rules 70 and 71 of the Employment Tribunal Rules of Procedure 2013, and in the interests of justice, we are applying for a reconsideration of the judgement on the grounds that we did not attend the hearing as we had not received any prior notification about the claim."
2. The email shows a misunderstanding of what had happened. There was no hearing on 1 November 2022. Because no response had been presented in answer to the claim form, judgment was entered pursuant to rule 21 of the Employment Tribunals Rules of Procedure on 1 November 2022. That was done on the papers. The respondent has requested reasons for that judgment and they have been provided under separate cover.
3. On 24 November 2022, a legal officer wrote to the parties inviting them to consider an attached document which provided sources of legal advice and also informed them of rule 20 of the Employment Tribunal Rules of Procedure. Rule 20 was set out within the email.

4. On 30 November 2022, the respondent stated that they had not received a copy of the ET1 and asked for a copy to be sent. The tribunal file shows that both the ET1 and a letter explaining that because the respondent had not presented a response judgment could be issued had been sent to the respondent's registered office.
5. Copies of the relevant documents were sent to the respondent.
6. On 7<sup>th</sup> December 2022 the respondent wrote stating, again, that it had not received documents and stating that it wished to apply for the default judgement to be set aside.
7. On 8 December 2022 copies of the claim form were sent to the respondent by email.
8. On 10 January 2023 a legal officer wrote to the respondent, in response to its letter of 7 December 2022, stating that the tribunal's email of 24 November 2022 had set out how the respondent should apply for a reconsideration of the judgment but nothing had been received from the respondent. That letter was not wholly accurate, there is a distinction between applying for a reconsideration of a judgment and applying for an extension of time to present a response. However it reiterated to the respondent that the email of 24 November 2022 set out the way forward.
9. On 10 January 2023, the respondent wrote stating that it was not apparent that the email of 24 November 2022 was a response to the request for reconsideration and that an appeal had now been lodged in respect of which the respondent requested the written reasons for the judgment. As indicated those have been provided.
10. The respondent has still not made any application pursuant to rule 20 of the Tribunal's Rules of Procedure which would require it to provide a draft of the response which the respondent wishes to present to the tribunal or an explanation of why that is not possible.
11. The application for reconsideration has not been determined and this decision is the determination of that application.
12. The application for reconsideration is made under rule 71 of the Employment Tribunal's Rules of Procedure. The process under rule 72 is for the judge to consider the application and determine, first of all, whether he or she considers that there is no reasonable prospect of the original decision being varied or revoked. If the judge is of that view, the application must be refused otherwise the views of the other parties to the case must be sought.
13. For the reasons I set out below I do not consider that there is any reasonable prospect of the original decision in this case being varied or revoked and, therefore, I refuse the application for reconsideration.
14. The decision which was made in respect of the judgment was correct. The respondent had not presented a response and, therefore, the claimant was entitled to a judgment as has been set out in the Reasons which have been sent to the parties at the request of the respondent. The respondent has not

set out any basis for suggesting that the decision was wrong and has not even set out what its defence to the claim is (if there is one).

15. The outcome which the respondent really requires is an extension of time to present a response to the claim because, it says, it did not receive notice of the proceedings. To do that it must comply with rule 20 of the Employment Tribunal Rules of Procedure, including sending a draft of the response which it wishes to present to the claim. If the application is successful, the judgment which has been issued will be set aside pursuant to rule 20(4). There will be no need for a reconsideration of the judgment.
16. It is a matter for the respondent whether it wishes to apply pursuant to rule 20, it has been on notice of that rule since 24 November 2022. Nothing in this judgment should be taken as expressing a view on the merits of any application under rule 20; such an application will be decided at the time it is made.

Employment Judge Dawson  
Date: 24 January 2023

Judgment sent to the Parties: 06 February 2023

FOR THE TRIBUNAL OFFICE