



EMPLOYMENT TRIBUNALS

Claimant: Miss N Pasquwelage

Respondent: Chief Constable of Wiltshire Police

RECONSIDERATION JUDGMENT

Employment Judge Cuthbert has considered the emails from the parties following the dismissal of the claimant's claims on 16 January 2023 and responds as follows:

1. The dismissal of the claimant's claims against the respondent was set out in the correspondence from the Tribunal to the parties dated 26 January 2023, which included a written copy of the dismissal judgment dated 16 January 2023 (and accompanying reasons). The claimant's two potential options for challenging the dismissal judgment (reconsideration or appeal), and the applicable time limits for doing so, were set out in the same correspondence. The claimant is legally qualified, as a solicitor.
2. The claimant's email of 30 January 2023 refers to her "ongoing claims" against the respondent. There are no ongoing claims – her claims were **dismissed in their entirety**, pursuant to Rule 47, at the hearing on 16 January. They are therefore already at an end, subject only to the two possible options above.
3. The claimant's email of 30 January was not stated on its face to be an application for a reconsideration of my decision to dismiss her claims. Most of the content could not reasonably be construed as amounting to such. The only possible bases upon which she might be viewed as seeking a reconsideration were the following points within her email:

- I sent an email a week prior to the hearing on 20/01/23 that my school denied authorisation to attend the hearing, and advised that any hearing would only be authorised on Fridays after noon.

- On top of my studies, I have become a part-time carer for my partner who has become ill. I hope that you can understand that, in those circumstances, I have very little energy to put into a claim that doesn't seem to move any forward.

4. The claimant's first point above gives a mistaken date for the hearing (it was on 16 January, not 20 January) and she was asked subsequently by the Tribunal to provide a copy of the earlier email to which she referred.
5. On 26 February 2023, the claimant forwarded a copy of the following email to the Tribunal (she did not copy in the respondent when forwarding the email), dated 10 January 2023 and timed 14.23:

Dear madam, sir,

I have been informed by my school that, unfortunately, they will not allow me to attend the hearing.

However, they have told me that they would allow me to skip optional classes on Friday afternoons for this matter.

I look forward to hearing from you.

6. The claimant's original email set out above, purportedly sent on 10 January, was not copied to the respondent, as it should have been. **It was also not received by the Tribunal.** The claimant would not therefore have received the usual "auto acknowledgment" reply email from the Tribunal to confirm receipt by the Tribunal of her external email (with which she would be familiar given the duration of the proceedings, dating back to 2020). She obviously also received no other reply or acknowledgment from the Tribunal of her email.
7. The claimant had first been notified of the hearing of 16 January 2023 by way of emails in November 2022. The one-day hearing was originally listed, on 4 November, to take place on 23 December 2022, one day being necessary in view of the complex history of the claim (as set out in the reasons dated 16 January 2023 and not repeated). The correspondence from the Tribunal of 4 November 2022 also included detailed guidance and stern warnings from EJ Midgeley to the claimant to the effect that she needed to prioritise the legal claim over her studies, or face the consequences, in the following terms:

The claimant has a lengthy history of failing to comply with case management orders. She appears to regard the Tribunal proceedings as being of secondary and subsidiary status to her academic studies in France, which she treats as the priority, affording her studies precedence over her duty to comply with case management orders. Most recently she suggested that she would not read emails between 1 and 31 October 2022 because she was on holiday.

....

The claimant appears to believe that Tribunal proceedings must be directed in accordance with her wishes and availability, that she can

direct their extent, timing and nature to best meet her convenience. That is a complete misconception.

Most recently the claimant has failed to comply with a case management order which was necessary to understand her claims and to permit the case management hearing in December to be effective. She has provided no explanation for that failure, and has made no application to vary the case management order.

Further failure to comply with case management orders and/or delay is no longer permissible. The claimant has reached the last chance saloon.

....

The claimant must therefore prioritise compliance with these Orders above her studies.

8. The 23 December date was subsequently varied as follows by way of an email from the Tribunal dated 26 November 2022:

UPON the claimant and the respondent's counsel being unable to attend the hearing listed on 23 December 2022

AND UPON the only available date to list the hearing being 16 January 2023

IT IS ORDERED THAT:

The hearing on 23 December 2022 is vacated and relisted on 16 January 2023.

The claimant must seek permission from her course to attend on that date, providing them with a copy of EJ Midgeley's Orders in this case to that end.

9. Despite being first notified of the 16 January hearing date back on 26 November 2022, it was not until over 6 weeks later that the claimant seemingly attempted to contact the Tribunal, to state merely that her school “*would not allow*” her to attend the hearing and offering Friday afternoons as an alternative. The very brief email was not received in any event, but even if had been, it gave no indication that the claimant had taken on board the comments of EJ Midgeley of 4 November or made any meaningful attempt to exempt herself from her studies for one day on 16 January. It was not acceptable for the claimant to expect the Tribunal and the respondent to deal with her case only on Friday afternoons, to suit her convenience and avoid disturbing her studies.
10. After 10 January, the claimant subsequently, on 13 January 2023, received log-in details from the Tribunal for the video hearing. She can have been in no reasonable doubt that the hearing was still proceeding.

She did not, however, follow up on her attempted email of 10 January or otherwise seek a postponement of the hearing due to take place on 16 January 2023. The obvious inference is that she was content to let matters proceed in her absence.

11. The claimant did not respond at all to either of the emails which the Tribunal sent her on the morning of 16 January (see previous reasons). The telephone number for her on the Tribunal file was not recognised.
12. Against the backdrop above, I have considered the claimant's email of 30 January 2023 under Rule 72(1), treating it as an application for a reconsideration of my decision to dismiss her claim under Rule 47. She has made no subsequent reconsideration application and any further application would now be substantially out of time.
13. I have decided that, pursuant to Rule 72(1), there is **no reasonable prospect** of my decision of 16 January 2023, to dismiss the claim under Rule 47, being varied or revoked on the basis of the additional material provided by the claimant.
14. The Tribunal had made it very clear indeed to the claimant that her claim needed to be given priority over her studies. It is abundantly clear that her priorities have continued to be very much the other way around. Her failure to attend the hearing on 16 January 2023 was due to the claimant again prioritising her studies over the Tribunal proceedings and adopting an unacceptably casual approach to the legal proceedings which she had brought against the respondent. Her apparent failed attempt to send a short email to the Tribunal on 10 January, which she did not follow up, does not excuse her non-attendance at the hearing on 16 January 2023, particularly in view of the significant history of non-compliance on her part.
15. There is no evidence that the caring responsibilities, to which the claimant made reference in her email, had any bearing whatsoever on her failure to attend the hearing.
16. The claimant's application for a reconsideration of my decision to dismiss her claim is therefore refused, pursuant to Rule 72(1).

Employment Judge Cuthbert
Date: 06 March 2023

Judgment sent to the Parties: 07 March 2023

FOR THE TRIBUNAL OFFICE

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