



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs D Edwin

**Respondent:** Whittingdon Health NHS Trust

## RECORD OF A PRELIMINARY HEARING

**Heard at:** Watford (via CVP)

**On:** 5 December 2022

**Before:** Employment Judge Fredericks

### Appearances

For the claimant: In Person

For the respondent: Ms M Sharp (Counsel)

## JUDGMENT ON RECONSIDERATION

1. The claimant brought three claims in relation to her employment at the respondent. The first of those, claim number 3314645/2021 was the subject of a dismissal judgment dated 24 November 2022 following an e-mail of 29 March 2022 from the claimant in which she said that she wished to withdraw the claim. That e-mail read:

*“Please withdraw the whole case reference number 3314645/2021, reason being my union did not want to represent me at the hearing and I am not well enough to represent myself”*

2. At this time, claim 3320545/2021 had been issued and consolidated with the claim which was subject to the judgment. The Tribunal therefore wrote back to the claimant on 18 May 2022 to ask whether she wished to continue with that claim. On the same day, the claimant replied and said that she no longer wished to withdraw her case and wanted to proceed to a hearing.
3. The claimant applied for reconsideration of the judgment dismissing 3314645/2021. The decision was made by a Legal Officer, and Employment Judge Quill directed that the matter should be considered at this preliminary hearing if time permitted. I heard the application at the outset of the hearing because the purpose of the hearing was to clarify and make decisions about aspects of all of the claimant’s claims. It was important to understand which claims

were live before that process could begin. I refused the application for the dismissal judgment to be withdrawn for the following reasons:

- 3.1 Rule 51 Employment Tribunals Rules of Procedure 2013 says that where a claimant informs the Tribunal that they are withdrawing all or part of a claim, that claim or part subject of the withdrawal communication “comes to an end”;
  - 3.2 as a consequence of Rule 51, no action from the Tribunal is required for a claim to end upon withdrawal – it ends when the withdrawal is communicated, and withdrawal is communicated when it is sent in unequivocal terms;
  - 3.3 the claimant’s e-mail of 29 March 2022 identified the claim by its number and expressed an unreserved and unequivocal desire for the claim to be withdrawn; and
  - 3.4 therefore, the claim ended on 29 March 2022, meaning that the Tribunal should produce a withdrawal judgment to confirm that the claim has ended.
4. In reality, then, the withdrawal judgment complained of did not end the claim. It merely confirmed the fact that the claim had already come to an end prior to its production. I am able to reinstate a claim which has ended by its withdrawal, and so there was no reason in the interests of justice to reconsider the judgment.
  5. Ms Sharp submitted that the wording of the claimant’s original e-mail, to withdraw the whole claim, could and perhaps should be read as an unequivocal withdrawal of both aspects of the consolidated claim. I have some sympathy with that argument, but the difficulty is that the Tribunal did not interpret the e-mail as an unequivocal withdrawal of the second claim number. This is self-evident from the decision to e-mail in order to ask that point of clarification. I do not, therefore, consider that 3320545/2021 has been withdrawn, and that claim survives.

Signed:

**Employment Judge Fredericks**

1 March 2023

Sent to the parties on:28/3/2023

NG - For the tribunal office