



EMPLOYMENT TRIBUNALS

Claimant: Miss L Mojzisova

Respondent: Aleksandra Pluta

UPON APPLICATION by the Claimant made by an email dated 27 October 2022 (supplemented by a further email dated 31 October 2022) to reconsider the judgment sent to the parties on 27 October 2022, under rule 71 of the Employment Tribunals Rules of Procedure 2013,

JUDGMENT

The Claimant's application for reconsideration is refused on the basis that there is no reasonable prospect of the original decision being varied or revoked.

REASONS

Background

1. The Claimant's application for reconsideration of the Judgment and Reasons sent to the parties on 27 October 2022 was plainly made within the 14-day time limit set by rule 71 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 ("the Rules").
2. For reasons unknown to me, that application and the Claimant's subsequent email of 31 October 2022 were not referred to me until 30 March 2023. I apologise unreservedly to the parties for the resulting delay in dealing with it.
3. In accordance with rule 72(1) of the Rules, the first step is for me to consider the Claimant's application, to determine whether there is any reasonable prospect of the original decision being varied or revoked. I have decided that there is not, for the reasons set out below.

4. In reaching my conclusion, I have borne in mind that a judgment should be reconsidered where it is in the interests of justice to do so. That is a deliberately wide test, though typically, in this context, reconsideration would take place where a party introduces new evidence that was not previously before the Tribunal to suggest that the original Judgment was in error, is able to identify some procedural irregularity or is otherwise able to identify an obvious error in the Tribunal's conclusions.

Background

5. The Claimant presented her Claim on 11 June 2022. On 27 June 2022, she was directed by the Tribunal to provide confirmation of the complaints she was seeking to make, and if complaining of discrimination, to provide details of those complaints. She was to reply by 4 July 2022.

6. In the absence of any reply, a reminder was sent to her on 5 July 2022, setting a new deadline of 12 July 2022. In the continuing absence of a reply, the Tribunal wrote to her again on 28 July 2022 to say that Legal Officer Metcalf was considering striking out her Claim because she had not responded to the Tribunal's correspondence and the Claim was not being actively pursued.

7. On 28 July 2022, the Claimant wrote to the Tribunal. She did not provide any confirmation or details of the complaints she was seeking to make. She stated only that the Respondent had not paid settlement monies agreed in respect of a previous Claim (1301382/2022) settled by way of an ACAS COT3 Settlement Agreement and was responsible for discrimination.

8. This being plainly insufficient to comply with the Tribunal's previous directions, a further letter was sent to the Claimant by direction of Employment Judge Broughton on 10 August 2022 to inform her that she should provide the confirmation and details of her complaints by return. In the absence of any reply, a further letter was sent on 31 August 2022 making clear that it was impossible to identify the Claimant's complaints and that if she had not received the settlement sum in respect of her previous Claim, she may need to take advice on how to enforce the settlement in the civil courts. The letter made clear that if the information that had been repeatedly requested was not provided by 7 September 2022, the Claim may be struck out.

9. There being no reply to that letter, the Claimant was informed by a further letter of 22 September 2022 that Employment Judge Camp was considering striking out the Claim because it was not being actively pursued. The Claimant was given until 3 October 2022 to give reasons why she objected to that proposal or request a hearing. It was in the absence of a reply to that letter that I issued the Judgment dated 26 October 2022, sent to the parties the following day ("the Judgment"), striking out the Claim because it had not been actively pursued.

Reconsideration application

10. The Claimant's emails of 27 and 31 October 2022 apologised for the delay in writing to the Tribunal and explained that she has anxiety disorder. She provided the following doctors' notes:

10.1. dated 16 February 2022, for the period 15 February to 1 March 2022.

10.2. dated 25 August 2022, for the period 21 and 22 August 2022.

10.3. dated 30 September 2022, for the period from that date to 14 October 2022.

11. The Claimant also provided a note from the Jubilee Health Centre to say that she has anxiety which can have a considerable impact on her work and daily life. In addition, she explained that the Respondent had reported her to the police and a previous employer and was in breach of the ACAS COT3 Settlement Agreement referred to above, attaching that document.

Conclusions

12. The Claimant's communications disclose no basis on which I could conclude that there is any reasonable prospect of the Judgment being varied or revoked.

13. First, whilst the evidence of the Claimant's anxiety disorder is noted, the doctors' notes cover only a small part of the four-month period from late June to late October 2022 during which she failed to properly engage and comply with the Tribunal's request to provide information which would demonstrate that she was pursuing her Claim.

14. Secondly and in any event, she has still not provided that information.

15. Thirdly, it seems plain from her email of 31 October 2022 that her complaint is that the Respondent has not paid the sums agreed under the ACAS COT3 Settlement Agreement in respect of her previous Claim. As has previously been indicated to her, that does not disclose any Claim in respect of which the Tribunal has jurisdiction.

16. The Claimant's application for reconsideration is therefore refused. If it remains the case that she says the settlement sum under the ACAS COT3 Settlement Agreement has not been paid, she may wish to consider taking advice about how to enforce that Agreement in the civil courts.

Employment Judge Faulkner
6 April 2023

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