



EMPLOYMENT TRIBUNALS

First Claimant: Ms Deborah Fakayo aka Ms Debra Fakayo
Second Claimant: Ms Sarah Fakayo

Respondent: London Borough of Lambeth Council

On the papers in London Central.

JUDGMENT ON RECONSIDERATION

1. The First Claimant's request for reconsideration of my order dated 2 November 2022 is refused under Rule 72(1).

REASONS

- 1) This matter was listed for a final hearing on 2 November 2022.
- 2) As set out in my judgment neither Claimant attended. Although contact was made with the First Claimant by my clerk, she was unable or unwilling to attend, even by telephone. No contact was made with the Second Claimant, and she is not party to this reconsideration application.
- 3) The First Claimant has since written in explaining that she had not received the notice of hearing and could not join the hearing on the day as she had no internet access.
- 4) I note that it is possible to join CVP hearings by telephone only with no video, but this option was not taken.
- 5) However, the Claimant's knowledge of and attendance at the hearing is immaterial. Both Claimant's claims were already struck out by the date of the hearing by operation of Employment Judge Robinson's unless order dated 21st September 2022 which stated:

Unless by 21 October 2022 the claimants:

- (1) explain the reason for their non-attendance at the 21 September 2022 Tribunal Hearing and, if the reason relates to health, provides written medical evidence to justify their non-attendance,*
- (2) explain the reason for their non-compliance with the Tribunal letters and Orders of 20 May, 7 June 2022 and 13 June 2022 and, if the reason relates to health, provides written medical evidence to justify their non-compliance,*
- (3) explain how they satisfy the continuity of service requirements for an unfair dismissal i.e. they have two years of continuous service at the date the employment relationship ended,*
- (4) provide details of what their claims are for, how much they are claiming and how those amounts have been calculated,*

the claims under Case number 2301410/2022, 2301492/2022 and 2301493/2022 in the names of Debra Fakoya and Sarah Fakoya will stand dismissed without further order.

- 6) As stated in my previous order neither claimant complied with the unless order and the claims stood struck out automatically as of 21 October 2022.
- 7) No application is before the Tribunal seeking to appeal or vary this unless order or requesting relief from the sanction imposed. Nor is there any evidence that the Unless Order was incorrectly served. Therefore, even if I were to relist this matter for another final hearing the claimant would remain struck out by Judge Robinson's order.
- 8) In coming to my decision, I have considered the over-riding objective.
 - a) Ensuring that the parties are on an equal footing: I note that the Claimants are unrepresented. However, this does not appear to be an issue here.
 - b) Dealing with cases in ways which are proportionate to the complexity and importance of the issues: The Claimants have failed to attend two hearings and now seek a third bite at the cherry whilst still not complying with the unless order. This case is for a modest sum, with limited prospects of success when one considers the dates of employment. The time allocated to this claim is already disproportionate.
 - c) Avoiding unnecessary formality and seeking flexibility in the proceedings: This does not mean that listings and unless orders can be ignored with impunity.
 - d) Avoiding delay, so far as is compatible with proper consideration of the issues: The Claimant's conduct in pursuing these cases is causing significant delay and this will impact on the ability of the Respondent to provide clear evidence, untainted by the memory loss associated with delays.
 - e) Saving expense: As mentioned above the Claimants have had two hearing dates already which they have not attended. This has wasted taxpayer money

and HMCTS resources. It has already caused the Respondent to incur significant wasted costs.

- 9) Considering the overriding objective, the Claimants' repeated failure to engage, and the Unless Order I take the view that there are no reasonable prospects of the Claimant's request for reconsideration succeeding. This is on the basis that had I had the additional information before me on the day. I Therefore I refuse the application under Rule 72(1).

Employment Judge Wright

3 January 2023