



# EMPLOYMENT TRIBUNALS

**Claimant:** Shafia Saeed

**Respondent:** Reed Specialist Recruitment Limited

## JUDGMENT

1. The claimant's application for relief from sanctions and/or reconsideration is dismissed.

## REASONS

1. On 9 March 2022, the claimant presented a claim form in which she complained of race and religion or belief discrimination as well as arrears of pay in respect of employment as a PPI case handler between 1 October 2018 and 16 October 2018.
2. The respondent submitted a 'holding response' and secured permission of the Tribunal to provide further information by 13 May 2022.
3. The claimant emailed the respondent and the Tribunal on 5 May 2022 and again on 9 May 2022 requesting sight of the amended response and the respondent's agenda in advance of the telephone case management preliminary hearing which was due to take place on 24 May 2022.

4. On 10 May 2022, the respondent sent a response, which contained significant factual detail, denying the claims, together with an agenda to both the claimant and the Tribunal. Those documents were accompanied by an application to strike the claimant's claim out on the basis that the claim had been presented out of time.
5. On 7 July 2022, the respondent sent to the Tribunal and the claimant a bundle in preparation for the preliminary hearing.
6. On 11 May 2022, at 02:46, the claimant emailed the Tribunal only. She stated simply "I am unable to attend a preliminary hearing. My father has passed away and I flying to my home country. I will update you once I am back."
7. EJ Newburn accepted that email as an application to adjourn the preliminary hearing on 24 May and granted the application. On 12 May 2022, the parties were notified by email of the adjourned hearing, now due to take place on 11 July 2022.
8. On 11 July 2022, the claimant failed to attend the preliminary hearing. The respondent attended by its counsel and solicitor. The claimant did not answer a telephone call made by the Tribunal during the hearing. The respondent informed me that it had made several attempts to communicate with the claimant but that all were unsuccessful.
9. On 11 July 2022, I made and unless order, requiring the claimant to: provide her reason for her non-attendance at the hearing; confirm whether she is actively pursuing her claims; confirm the statutory basis for her claim for wages. The claimant was required to provide that information by 22 July 2022.
10. On 25 July 2022, the respondent wrote to the Tribunal seeking 'a strike out' of the claimant's claim.
11. on 28 July 2022, the Tribunal confirmed the automatic dismissal of the claimant's claims upon non-compliance by her.
12. The claimant was copied into an application for costs and correspondence dated 19 July, 29 July and 5 August 2022. On 17 August 2022, the claimant was asked by EJ Sweeney for her comments on the claimant's application, to be received by 24 August 2022. On 31 August, the claimant was copied into further correspondence from the respondent to the Tribunal.

13. On 23 September 2022, EJ Jeram acceded to the respondent's application, making an order that the claimant pay the respondent's costs of £500.
14. On 7 October 2022, the claimant wrote to the Tribunal requesting that the costs order be cancelled and the hearing be relisted. She stated that she had returned to the UK but sought further time she remained mentally fragile.
15. In various emails, the claimant explained that her father had passed away on the evening of 10 May, that her sister had packed her suitcase and that a friend had booked her ticket to fly from London to Lahore. She provided travel documentation confirming a flight 2135 on 11 May 2022, together with evidence that suggests she exited Pakistan on 1 October 2022. The claimant stated she was profoundly affected by the death of her father, such that she was incapable of sending emails. She sent to the Tribunal a fit note dated 17 November 2022, in which her GP stated *'I have been treating her for severe grief reaction following her father's death. She returned to Pakistan [sic] 11/5/22 and came back to the UK 1/10/22. Thus, she was not able to attend court between those dates'*.
16. The application is resisted by the respondent.
17. I have considered the claimant's application as an application for relief from sanctions, made pursuant to rule 38, and in the alternative, an application for reconsideration pursuant to rule 70 of the Tribunal Rules of Procedure 2013.
18. An application for relief from sanctions requires the applicant to make a written application within 14 days of the date written notice of confirmation of the effect of the unless order was sent to the parties: rule 38 (2). Similarly, an application for reconsideration of a judgement requires an application to be presented in writing within 14 days of the date on which the written communication of the decision was sent to the parties: rule 71.
19. The parties were served written confirmation of the dismissal of the claimant's claim on 28 July 2022. The relevant rules therefore both required the claimant to make her application by 11 August 2022.
20. The claimant's application, whether considered as an application for relief from sanctions, or an application for reconsideration, is made significantly outside the applicable time limit: the rules require an application to be made within 14

days of communication of the decision; the claimant exceeded that time limit by a further 8 weeks. For that reason alone, I dismiss the application.

21. The claimant has not sought an extension of time to submit her application, but had she done so, I would not have granted the extension. Whereas I recognise that the claimant's grief has impacted upon her to such a significant extent that she has sought medical support, there is no evidence before me to suggest that the claimant was so debilitated that she was incapable of reading or responding to any email correspondence at all about her claim. The claimant did not communicate with the Tribunal about her claim at all for a period for almost 5 months; it was not within her gift to direct the respondent and the Tribunal to leave her claim in abeyance until some unidentified date in the future. The claimant was notified of the dismissal of her claim some halfway through that 5 month period. It was the claimant's claim to pursue and it was her responsibility to actively pursue it or seek to engage with the respondent and the Tribunal to identify an alternative way forward; she did neither. The overriding objective requires fairness to both parties, as well as dealing with matters proportionately. The claim was already presented years beyond the primary time limit and the respondent was entitled to have the matter dealt with expediently once the claim had been presented. I sympathise with the effect of the unfortunate timing of the claimant's loss of a close family member, but I cannot accept that it would be in the interests of justice or in accordance with the overriding objective to extend time by 2.5 months in order to consider her application for relief from sanctions.
22. The claimant's application is dismissed.

Employment Judge Arullendran

Date: 17 May 2023