



EMPLOYMENT TRIBUNALS

Claimant: Mr F-X Pierron

Respondent: Amazon UK Services Ltd

JUDGMENT

1. The claimant's application dated **14 September 2022** for reconsideration of the judgment, sent to the parties on **7 September 2022** is granted. That judgment is revoked and is replaced by the following paragraphs.
2. The only respondent is Amazon UK Services Ltd (rather than Amazon DIGI1).
3. All and any claims against Pasqui Manuel or any managers are struck out.
4. There will be a public preliminary hearing to decide which claims, within the jurisdiction of the tribunal have been presented, to clarify those claims and issues, consider any amendment applications, and deal with any application for strike out or deposit order. Subject to those matters, the hearing may list further hearings and make case management orders for preparation for those hearings.

REASONS

1. Rules 70-72 of the Tribunal Rules deal with reconsideration.
2. The Tribunal has discretion to reconsider a judgment if it considers it in the interests of justice to do so. Rule 72(1) requires the judge to dismiss the application if the judge decides that there is no reasonable prospect of the original decision being varied or revoked. Otherwise, the application is dealt with under the remainder of Rule 72.
3. In deciding whether or not to reconsider the judgment, the tribunal has a broad discretion, which must be exercised judicially, having regard not only to the interests of the party seeking the reconsideration, but also to the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.
4. There is a single ground for reconsideration — namely, “where it is necessary in the interests of justice”. When deciding what is “necessary in the interests of justice”, it is important to have regard to the overriding objective to deal with cases fairly and justly, which includes: ensuring that the parties are on an equal footing; dealing with cases in ways which are proportionate to the complexity and importance of the issues; avoiding unnecessary formality and

seeking flexibility in the proceedings; avoiding delay, so far as compatible with proper consideration of the issues; and saving expense.

5. In Outasight VB Ltd v Brown 2015 ICR D11, the EAT explained that the revision to the rules had not been intended to make it more easy or more difficult to succeed in a reconsideration application. In the new version of the rules, it had not been necessary to repeat the other specific grounds for an application because an application relying on any of those other arguments can still be made in reliance on the “interests of justice” grounds.
6. The situation remains, as it had been prior to the 2013 rules, that it is not necessary for the applicant to go as far as demonstrating that there were *exceptional* circumstances justifying reconsideration. There does, however, have to be a good enough justification to overcome the fact that, when issued, judgments are intended to be final (subject to appeal) and that there is therefore a significant difference between asking for a particular matter to be taken into account before judgment (even very late in the day) and after judgment. As was stated in Ebury Partners UK Limited v Mr M Acton Davis Neutral Citation Number: [2023] EAT 40

The employment tribunal can therefore only reconsider a decision if it is necessary to do so “in the interests of justice.” A central aspect of the interests of justice is that there should be finality in litigation. It is therefore unusual for a litigant to be allowed a “second bite of the cherry” and the jurisdiction to reconsider should be exercised with caution.

The Claimant’s application

7. The Claimant submitted an email dated **14 September 2022**, within the relevant time limit, seeking reconsideration. I sought further information from both parties as a result.
8. A letter on the instructions of EJ R Lewis had been sent to parties on 14 June 2022. My reasons for striking out the claim were that the Claimant appeared to have failed to reply to that letter, and to the Respondent’s 13 July application.
9. The situation is more complex than that, in that the Claimant had written to the Tribunal and the Respondent prior to 14 June 2022. The Respondent had received that correspondence, but it is not on the Tribunal file. Therefore both EJ Lewis and I were unaware of it at the time of our respective decisions.
10. The Claimant’s explanation is not fully satisfactory. However, the purpose of case management orders is not to catch people out. It is to make attempts to keep the litigation on track so that the complaints can be fairly determined.
11. I am satisfied that the Claimant had not abandoned his claim, and I would not have decided that he was not actively pursuing it had I been aware of his email of 7 May 2022.
12. I am less convinced that the Claimant had a good reason for failing to respond to the orders of 14 June 2022. It is important that he understands, going forward, that it The Tribunal orders him to do something (and especially if the order is to write to the Tribunal) by a certain date, then he must comply.

13. However, I do not think that strike out is a proportionate response in all the circumstances. There has now been a significant delay, which has potentially caused prejudice to the Respondent. However, in fairness to the Claimant, he is only responsible for the delay caused by not supplying the required information by 5 July 2022 (which in turn led to strike out and cancellation of preliminary hearing). He is not responsible for (all of) the delays since his 7 September 2022 application for reconsideration.
14. An alternative to strike out is to give the Claimant a warning that future breaches of orders may lead to strike out, or other consequences, but to give him a further opportunity to clarify his proposed claims.
15. For the reasons stated above, the claim against Amazon UK Services Ltd (only) will continue.

Employment Judge Quill

Date: 4 July 2023

JUDGMENT SENT TO THE PARTIES ON

5 July 2023

FOR THE TRIBUNAL OFFICE