



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss J R Jones

**Respondent:** The Chief Constable of North Wales Police

Upon a reconsideration of the judgment dated 07/11/2022 refusing to reconsider a judgment dated 26 September 2022, on the Tribunal's own initiative under rule 73 of the Employment Tribunals Rules of Procedure 2013, and without a hearing, the Tribunal finds that there are grounds to reconsider the decision.

## JUDGMENT

1. Following the application of the Claimant to the Employment Appeals Tribunal I was asked for comment on my refusal to reconsider the decision. On review of the same I have decided that there were grounds to reconsider the decision. This is on the basis that the Claimant's claims regarding her health were not dealt with in the costs judgment and therefore stand to be considered.
2. The preliminary hearing came before me on 07/09/2022. At the hearing the Claimant was represented by her mother, Miss Murray. Mr Lassey was representing the Respondent. The hearing was a public hearing that was listed both to deal with the jurisdictional points (not contested by the Claimant in the matter before me today) and the costs application of the Respondent.
3. Medical evidence had been provided to me in the form of a handwritten letter from the Claimant's GP and 1 page of her GP records showing her medications. I was aware that the Claimant was suffering with anxiety and was sleeping poorly and that her mental state was "not good" according to her GP. I had taken this into consideration and advised that the Claimant was to be treated as a vulnerable witness and ensured that the questions asked of the Claimant were appropriate and she was made ware of her right to have a break at any point.
4. Written reasons were not requested for the judgment on jurisdiction. In giving my oral judgment on that matter, I gave my findings of fact first. In summary, these were as follows:

"The limitation period for the Claimant in relation to all of her claims was 18/02/2021 and this fact was known to the Claimant.

The Claimant was aware that there were only 3 possible methods of presenting a claim and that service by email did not suffice.

The postal service was working throughout the covid pandemic and was working in February 2021.

Neither the Claimant nor her mother had a conversation with the Wales Employment Tribunal offices on or around 2 February 2021. She therefore was not wrongly advised by the Tribunal staff that she could submit her claim via email.

The Claimant did post a copy of her ET1 to the correct central postal address for the Employment Tribunal following the rejection of her claim on 25/03/2021.

Although the Claimant had mental health issues, she was able to attend to matters during the limitation period as demonstrated by her interaction with ACAS and by completing an ET1.

The Claimant received an automatic read receipt from the Tribunal following her email of 2 February 2021 which advised that claims (ET1 forms) could not be served by email.”

5. I then gave oral reasons. The relevant part of those reasons which deals with my findings on the Claimant’s mental health is set out below:-  
  
“Whilst I take into account the Claimant’s mental health conditions in considering her evidence, I note she is functioning well enough to have sourced a new job at time of drafting her ET1 and resigning, liaise with ACAS and have applied for a course of study.”
6. The Claimant’s mental health therefore was not raised at the first time at the reconsideration of costs judgment stage.
7. The costs application was heard around 15 minutes following the judgment on jurisdiction. In that hearing, the Claimant’s representative raised on her behalf that the Claimant had felt after the first preliminary hearing that the process was really challenging and too much for her so much so that the Claimant’s mother stepped in to become her representative before the third hearing. It was raised that the case had not helped the Claimant’s mental health and that the Claimant had not intended to cause “a couple” of adjournments and that there was no malice intended and that it was caused by her not understanding what was required and the stress and anxiety of the process. It was asked that costs were not awarded against the Claimant due to her mental health as there was no intent to mislead or be difficult.
8. Due to the serious nature of the costs application and the implications of the same, I reserved my decision as I wanted to give the application the time it properly deserved and wanted to re-read all relevant paperwork in the case.
9. I am reconsidering my decision on costs as I note that I did not deal with the Claimant’s mental health in my judgment. I consider my judgment therefore to be deficient in that respect and therefore reconsider that basis of the costs judgment.
10. In reconsidering the decision, I bring forward my oral findings that I made earlier on the day of hearing. The Claimant, despite having mental health issues which I accept fully that she had, had managed to liaise with ACAS and personally draft her ET1. The Claimant had also managed to find a new job and had started by 09/11/2020 which was shortly after her employment ended with the Respondent. Further, she had applied for and was then successful in being selected for a course to train as a social worker which she had started in the July before the hearing. The Claimant was undertaking this course which included seeing families in the community; a responsible and involved role. I find that despite clearly having documented mental health difficulties, these difficulties were not

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having a functional affect on the Claimant's ability to concentrate and deal with both her standard day to day functions and business/ employment matters during the relevant period. I therefore find that the Claimant's mental health was not the cause of her failures to comply with case management orders. Therefore, the costs decision stands for the reasons set out within it, with the addition of these findings in relation to the Claimant's mental health.

11. I do not reconsider the decision in relation the Claimant's means. The Claimant gave evidence about her means and the existence of an ISA. Providing evidence of a different account does not detract from that evidence and the decision on ability to pay was properly considered in the costs judgment and there are no grounds to reconsider the same.

Employment Judge Lloyd-Lawrie

Date - 2 July 2023

JUDGMENT SENT TO THE PARTIES ON 11 July 2023

FOR THE TRIBUNAL OFFICE Mr N Roche