



EMPLOYMENT TRIBUNALS

Considered at: London South

On: 12 January 2024

By: Employment Judge Ramsden

In the matter of Mr T Tolhurst-Cherriman v Creative Process Digital Ltd

Consideration of judgment reached on: 13 December 2023

JUDGMENT ON RECONSIDERATION

1. The Claimant's application for reconsideration of the judgment given in this matter on **13 December 2023** is refused, and the decision in that judgment is confirmed.

APPLICATION

2. On 19 December 2023 the Claimant applied, under Rule 71 of the Employment Tribunals Rules of Procedure 2013, for reconsideration of my decision on 13 December 2023 to strike-out the Claimant's claim.
3. The Claimant's reason for doing so is that he made a mistake on the Claim Form when setting out his contact email address. The Claimant says that, for this reason, he did not receive any of the emails that were sent to him by the Tribunal, including the strike-out warning that was sent to him on 23 November 2023.
4. In support his contention, the Claimant says that he emailed the Tribunal twice – the first occasion being "*a few months ago*" and the second being "*in the last couple of weeks*" to say that he had received no correspondence "*from anyone*", and that he "*got a reply of a hearing date set for the 19/12 back in September I believe. Unfortunately I never imagined I would have got my email address wrong*".

BACKGROUND

5. The email address identified by the Claimant on his Claim Form was troytolhurst@hotmail.com (the **Original Email Address**). The email address from which the Claimant's reconsideration request was sent was TroyTolhurst@outlook.com (the **Later Email Address**).
6. On 3 April 2023, the Tribunal sent a Notice of Hearing to the parties for a hearing on 12 September 2023. In the Claimant's case, this was sent to the Original Email Address.
7. Correspondence continued to be sent by the Tribunal and the Respondent (including disclosure of the Respondent's evidence relevant to the issues in the claim) to the Claimant at the Original Email Address.
8. On 22 June 2023 the Tribunal sent a letter postponing the 12 September 2023 hearing, and notifying the parties of a two-day listing for the Final Hearing of the matter to the parties to take place on 19 and 20 December 2023. That Notice of Hearing was sent to the Claimant at the Original Email Address.
9. On 30 August 2023, the Respondent applied for the Claimant's claim to be struck-out for the Claimant's failure to comply with the Orders attached to the Notice of Hearing made on 22 June 2023, and because the Respondent considered the claim to be scandalous, vexatious or as having no reasonable prospect of success. The Claimant was copied into that application at his Original Email Address.
10. On 11 October 2023, the Claimant emailed the Tribunal using the Later Email Address, which included:

"I have just received a call from ACAS updating me on my case. They have said something has happened at the end of September but couldn't send it across to me because it was marked.

As of yet I have received no correspondence from you. would it be possible to give me an update about what is going on with the case, Acas have told me there is a hearing in December again I know nothing about this as I've received nothing from you."
11. Employment Judge Sudra instructed the Claimant to respond to the Respondent's strike-out application by no later than 28 November 2023. That instruction was sent to the Original Email Address for the Claimant.
12. The Claimant failed to make representations, and so I determined that his claim should be struck-out on 13 December 2023.
13. On 18 December 2023, the Claimant emailed the Tribunal using the Later Email Address, which included:

"I have a hearing tomorrow and I still haven't received the details on how to log in could you please send them to me?"

I also was expecting an email to submit my evidence but I haven't received that either. I have not been sent anything from the respondent in terms of there evidence etc?"

14. On the same date (18 December 2023) the Claimant noticed the error on the Claim Form and wrote to the Tribunal:

"I've noticed there's an error in the email section I think that's why I've not received anything from you.

On the claim form I've written troytolhurst@hotmail.com...

It should be troytolhurst@outlook.com can you amend this?"

DECISION

15. The Claimant's application fails.
16. The error resulting in the fact that he was not warned of the Respondent's strike-out application and the Tribunal's deadline for his representations on it was clearly on the Claimant's part, as he accepts. Considerable time and effort on the part of the Respondent and the Tribunal has been expended on this matter, which would have to be repeated should the Claimant be permitted to re-run his claim.
17. While it appears that the Tribunal failed to respond to the Claimant's email of 11 October 2023, the Claimant should have pursued the matter by contacting either the Respondent or Acas, or the Tribunal again.
18. The Claimant had a copy of his Claim Form, and was able to identify the error at an earlier point in time than he in fact did.
19. It is not in the interests of justice that he is able to require the Respondent to repeat the time and effort it has spent in the nine month period since he filed his Claim Form to defend the claim again, and nor is in the interests of other parties who are awaiting justice from this busy Tribunal that the Tribunal's resources are also spent dealing with it.
20. For that reason, the Claimant's application fails.

Employment Judge Ramsden

Date 12 January 2024