



EMPLOYMENT TRIBUNALS

Claimant: Mrs Nishat Kamal Kaniz

Respondent: Navaratna South Indian Restaurant Ltd

RECONSIDERATION JUDGMENT

1. The Claimant has requested a reconsideration of my judgment dated 27 November 2023. The Claimant made the application within the 14-day limit.
2. The Claimant did not attend the hearing before the panel on that occasion and was not represented.
3. The panel struck out the claim under Employment Tribunal Rule 37(1)(c) because the claimant had not complied with the Tribunal Rules or a Tribunal order and under Employment Tribunal Rule 37(1)(d) because it was not being actively pursued.
4. The Claimant has now provided evidence that her representative wrote to the Tribunal on 24 November 2023 to say the Claimant would be unable to attend the hearing due to having Covid. No evidence of this was attached, in breach of the Presidential Direction. Furthermore, when no adjournment was granted, the Claimant's representative did not attend.
5. The panel also noted that the Claimant had not complied with the orders of Judge A Stewart dated 20 April 2023, requiring her to file and serve various documents.
6. I am of the view that even if these emails referencing Covid had been placed before the panel, they would still have found that the Claimant had failed to comply with a Tribunal Order and would have struck out the Claimant under Rule 37(1)(c).
7. Had the claim been struck out solely on 37(1)(d) then it may be that the Claimant could argue at a full reconsideration hearing that the decision should be set aside, but in light of the significant failure to comply with directions to file documents I find that the 37(1)(c) finding was still open to the panel.
8. Therefore, I find that there is no reasonable prospect of the original decision being varied or revoked and I refuse the application under Rule 72(1).

Case Number: 2300829/2022

Employment Judge D Wright
Date: 9 January 2024