



EMPLOYMENT TRIBUNALS

Claimant: Miss E Neto
Respondent: GXO Logistics UK Ltd
Before: Employment Judge McAvoy News

JUDGMENT ON APPLICATION FOR RECONSIDERATION

1. The Respondent's application for reconsideration is granted.
2. The Judgment upholding the Claimant's claim has been revoked.

REASONS

1. On 7 March 2024, following a final hearing which the Respondent did not attend, I issued a Rule 21 Judgment, upholding the Claimant's claim, with reasons. That Judgment was sent to the parties shortly thereafter.
2. On 12 March 2024, the Respondent applied for reconsideration of that Judgment. In summary, the Respondent's reasons were that they had not received the claim or any correspondence from the Tribunal. They acknowledged that the address that the claim was sent to was the address of the Respondent's site in Barnsley but they said that they did not receive the claim form or any notice of hearing.
3. They explained that they were aware that the Claimant may bring a claim, given that they had been involved in ACAS early conciliation. Having received an email from the Claimant with a case number on 17 January 2024, they attempted to make contact with the Tribunal, asking for information about the claim. An email to this effect was sent to the Tribunal on 1 February 2024 (a copy of which was sent alongside the reconsideration application) however, unfortunately, that email was not responded to.

4. Rule 70 of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013/1237 (**Rules of Procedure**) states:

“A Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration, the decision (“the original decision”) may be confirmed, varied or revoked. If it is revoked it may be taken again”.

5. Rule 72 of the Rules of Procedure sets out the procedure to be followed. This states that if the Judge considers that there is no reasonable prospect of the original decision being varied or revoked, the application shall be refused. Otherwise, the Tribunal is required to send a notice to the parties setting a time limit for any response to the application by the other parties and seeking the views of the parties on whether the application can be determined without a hearing.
6. I decided that there were reasonable prospects of the original decision being revoked. Consequently, I directed that the application should be sent to the Claimant for her comments.
7. The Claimant provided comments on 28 March 2024 which I have considered. The main comment was that the email of 1 February 2024 evidenced the fact that the Respondent was aware of the existence of the claim, based on the earlier email dated 17 January 2024.
8. Whilst I agree that the Respondent was aware of the existence of the claim, this doesn't mean that the Respondent had received the claim or the notice of hearing. I expressed during the hearing that as the claim had not been served on the Respondent's registered address, it may be the case that the Respondent had not received it. This is why I had directed that the Judgment be sent to the Respondent's registered address, as well as the address mentioned on the ET1.
9. The email from the Respondent to the Tribunal states that they made two attempts to speak with the Tribunal, without success. After sending an email to the Tribunal which was not responded to, it's not reasonable for me to expect the Respondent to have done anything more.
10. I have decided that it is necessary in the interests of justice for the Judgment to be revoked.
11. I am satisfied that the Respondent did not receive the notice of claim and notice of hearing. After directing that the Judgment be sent to their registered address, and that Judgment having been sent, the Respondent promptly instructed a representative to apply for reconsideration.
12. It is not in the interests of justice to make a Judgment against a Respondent who has not had an adequate opportunity to participate in proceedings. As a

result of the above, I do not believe the Respondent has had an adequate opportunity to participate.

- 13. Consequently, the Judgment is revoked. I will direct that the claim will be reserved on the Respondent, asking for it to be sent to its registered address and the address of its legal representative (as well as the address on the ET1).

Employment Judge McAvoy News

5 April 2024

Sent to the parties on:

For the Tribunal:

.....