



# EMPLOYMENT TRIBUNALS

**Claimant: Mr P Smith**

**Respondent: TL Inn (Yorkshire) Ltd**

**Heard at:** By CVP                      **On:** 1 February 2024  
**Before:** Employment Judge Rostant

## **Appearances**

For the claimant: In person

For the respondent: Mr S Womack

## **JUDGMENT ON RECONSIDERATION**

**The application for reconsideration is refused.**

## **REASONS**

1. This matter came before me on 1 February 2024. My judgement was sent to the parties on 8 February 2024. In my judgment I struck out responses to two of the claimant's three claims and noted that the third had not been responded to at all. I found in favour of the claimant on some, but not all, of his claims.
2. On 12 February, the respondent wrote to the Tribunal and I am treating that email as an application for reconsideration under Rule 70 Tribunal Rules of Procedure.
3. In accordance with Rule 72, I am first required to decide whether the application for reconsideration raises any reasonable prospect of my original decision being varied or revoked. I have concluded that it does not.
4. The respondent entered no appearance on one of the claimant's three claims. In respect of the other two there was a history of failure by the respondent to comply with case management orders. The claimant had made a number of applications for unless orders and strike out in the run up to the hearing before me. As a result of a clerical error, none of those applications were referred to a judge until 16 January. At that point, Judge Cox asked for the respondent's comments on those applications. No reply was received. The claimant wrote

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pointing this out and Judge Jones asked for the respondent's comments on that letter. No reply was received.

5. At the time of the hearing, the case management orders for disclosure and witness statements had still not been complied with. The respondent did not attend the hearing and I was told and accepted that Mr Lumb had emailed the Tribunal on the previous evening to say that he would not attend because of the frequent emails from the claimant. I asked my clerk to ring the only number we had for the respondent. No response was received and at 10:05 the hearing commenced properly.
6. In the circumstances I struck the remaining responses out and proceeded in accordance with Rule 37(3).
7. At 11:10, my having already announced to Mr Smith my intention to strike out the responses, a Mr Womack attended the remote hearing on behalf of the respondent. He said that Mr Lumb had intended to attend but had been taken ill and had asked Mr Womack to attend. I explained the position to Mr Womack and he advised me that he knew nothing of the history of the case, could offer no explanation for the respondent's failure to engage with the process and that he could, in the circumstances, understand why I was not willing to change my mind on the decision to strike out. He declined my invitation to remain.
8. The application for reconsideration raises a number of matters which, I imagine, the respondent might have wished to raise in its defence to the claims had it attended, called evidence and adduced documentary evidence. What it does not do is to give any explanation for its failure to engage with the case management orders, reply to correspondence or attend the hearing (except as set out in paragraph 7 above).
9. Since it was the matters set out in paragraphs 4 and 5 that lead me to strike out the responses, I can see no reasonable prospect of this application leading to a revocation or variation of my original judgment.
10. In reaching this conclusion I bear in mind the overriding objective and the interests of justice. In particular, proportionality, the avoidance of delay, the saving of expense and the need for finality in litigation.

EJ Rostant

2 April 2024

Sent to the parties on:

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For the Tribunal Office:

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