



EMPLOYMENT TRIBUNALS

Claimant: Mr J P Bateman

Respondent: PAM Wellbeing Ltd

UPON THE RESPONDENT'S APPLICATION dated 17 April 2023 to reconsider the Judgment dated 20 March 2023 under rule 71 of the Employment Tribunals Rules of Procedure 2013.

JUDGMENT

1. The Respondent is granted an extension of time to 17 April 2023 to make its application for reconsideration.
2. The Tribunal determines that a hearing is not necessary in the interests of justice.
3. The Tribunal further determines that it is necessary in the interests of justice to reconsider its Judgment dated 20 March 2023.
4. On reconsideration, the decision of the Tribunal to strike out the Response is revoked.

REASONS

1. When the response was struck out by me on 20 March 2023 on the grounds that the Respondent had failed to make representations (or sufficient representations) in writing as to why it should not be struck out and/or to request a hearing to consider the matter, I was unaware that the Respondent had in fact written to the Tribunal in response to a strike out warning issued by the Tribunal on 28 January 2023. The case file was referred to me on 2 March 2023 for further consideration of the strike out warning; the Respondent's email of 30 January 2023 was not attached to the file when it was referred. On 9 March 2023, I directed the preparation of a Judgment striking out the response. When the case file was re-referred on 16 March 2023 with a draft Judgment for my further consideration, the Respondent's email of 30 January 2023 was still not attached to the file. I struck out the response on the grounds stated above. Those grounds cannot stand since, unbeknown to me, the Respondent had objected to the response being struck out. Furthermore, they had addressed the fact that a blank response form had been filed with the Tribunal; they explained that this was done in error after the permitted word count for online submissions had been exceeded.
2. Whilst there was some delay in the Respondent providing a copy of its proposed

response, in response to my further request in that regard, it would be disproportionate to refuse the application for that reason alone, not least given the Tribunal's own shortcomings in the matter. It would be contrary to the interests of justice for the Claimant to secure a judgment against the Respondent in such circumstances.

3. I do not offer any view as to whether the grounds of response are likely to succeed. However, the proposed response sets out plainly arguable grounds as to why the claim of age discrimination, relating to the Claimant's selection for redundancy, should not succeed.
4. A hearing has not been necessary in the interests of justice since it is clear on the face of the papers that there are legitimate, arguable issues regarding the reasons why the Claimant was selected for redundancy. It is necessary in the interests of justice to reconsider the Judgment striking out the response. On reconsideration, the Judgment is revoked.
5. The Claimant has made extensive representations regarding the Respondent's alleged destruction of evidence and breach of its obligations in respect of his personal data. These are matters, if at all, for consideration within the proceedings. In my judgement, they do not touch directly upon the immediate issue of whether I should reconsider and revoke my Judgment or mean that the Respondent should be prevented from filing a response to the claim.
6. I shall direct that the Response is accepted and that the case is listed for a case management preliminary hearing at which the Employment Judge can give separate, further consideration to what, if any, case management orders should be made in light of the Claimant's allegations.

Employment Judge Tynan

Date: 4 June 2024

JUDGMENT SENT TO THE PARTIES ON
5 June 2024

FOR THE TRIBUNAL OFFICE