



EMPLOYMENT TRIBUNALS

Claimant: Mr T Nurse

Respondent: Uni-versal Extras Limited

APPLICATION FOR RECONSIDERATION OF A JUDGMENT

The claimant's application for reconsideration of the Judgment sent to the parties on 5 December 2018 is refused.

REASONS

1. On 5 November 2018 the claimant sent an email to the Tribunal which attached another document. The email was headed "application for written application". The document attached is headed "appeal for written application." I have treated these documents as an application for reconsideration of the decision to strike out the claimant's complaint.
2. The Employment Tribunals Rules of Procedure 2013 ("the Rules") provide:

Principles

70. 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.

Application

71. Except where it is made in the course of a hearing, an application for reconsideration shall be presented in writing (and copied to all the other parties) within 14 days of the date on which the written record, or other written communication, of the original decision was sent to the parties or within 14 days of the date that the written reasons were sent (if later) and shall set out why reconsideration of the original decision is necessary.

Process

72.—(1) An Employment Judge shall consider any application made under rule 71. If the Judge considers that there is no reasonable prospect of the original decision being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application shall be refused and the Tribunal shall inform the parties of the refusal. Otherwise the Tribunal shall 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. The notice may set out the Judge's provisional views on the application.

(2) If the application has not been refused under paragraph (1), the original decision shall be reconsidered at a hearing unless the Employment Judge considers, having regard to any response to the notice provided under paragraph (1), that a hearing is not necessary in the interests of justice. If the reconsideration proceeds without a hearing the parties shall be given a reasonable opportunity to make further written representations.

(3) Where practicable, the consideration under paragraph (1) shall be by the Employment Judge who made the original decision or, as the case may be, chaired the full tribunal which made it; and any reconsideration under paragraph (2) shall be made by the Judge or, as the case may be, the full tribunal which made the original decision. Where that is not practicable, the President, Vice President or a Regional Employment Judge shall appoint another Employment Judge to deal with the application or, in the case of a decision of a full tribunal, shall either direct that the reconsideration be by such members of the original Tribunal as remain available or reconstitute the Tribunal in whole or in part.

3. The claimant states that he did not attend the hearing on the 30 October 2018 because he "received an email after looking in my trash on the very morning of the preliminary hearing". The claimant explains that he "neglected to inform the ET of my new address." The claimant says that he prefers that the Tribunal "email me and perhaps send a text as well, letting me know something been sent". He provides a mobile phone number.
4. The claimant states that on "the morning of the 30th I had a commitment to others. I could not take a day off at short notice." The claimant states that he "considered rushing from work but the travel cost would be expensive double at peak time over 100 pound one-way."
5. The claimant makes a number of other comments whose relevance to the application to restore his claim are obscure and not understood by me.
6. The respondent objects to the claimant's application.
7. The Rules provide that if the Judge considers that there is no reasonable prospect of the original decision being varied or revoked, the application shall be refused.

8. The circumstances in which this matter came to be struck are out are explained in the judgment of the 30 October 2018 (“the judgment”) which was sent to the parties on the 5 December 2018.
9. For the reasons set out in paragraphs 6 and 7 of the judgment I am satisfied that the claimant was aware of the time and date of the hearing before the morning of the hearing and not as he claims in his email of the 5 November 2018.
10. I am further satisfied that the claimant made the conscious decision not to attend the Tribunal hearing on 30 October 2018.
11. In the circumstances I am satisfied that the claimant’s application for a reconsideration has no reasonable prospect of being varied or revoked and has therefore to be refused.

Employment Judge Gumbiti-Zimuto

Date: 28 January 2019

Sent to the parties on: 11 February 2019

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For the Tribunals Office