



EMPLOYMENT TRIBUNALS

Claimant: Miss T Sills

Respondent: (1) Mr Marcel Hengst
(2) Nova Status B.V.
(3) GOT Technologies (UK) Ltd

Respondents' Application for Reconsideration dated 26 April 2023

Background

1. This is a response to the Respondents' application dated 26 April 2023 for a reconsideration of the Tribunal's Costs Order dated 21 April 2023. The Tribunal considers that this application can be addressed without the need for a hearing and notes that this was also the view of the parties.
2. The Tribunal has considered the Employment Tribunal Rules of Procedure, specifically Rule 70-72 in relation to Reconsideration of Judgments and Rule 75-78 in relation to Costs Orders.
3. The Tribunal has also referred to the following:
 - 3.1 The Case Management Order sent to the parties on 16 March 2023;
 - 3.2 The Claimant's application for costs dated 5 April 2023;
 - 3.3 Additional information provided by the Respondents on 9 May 2023;
 - 3.4 Additional information provided by the Claimant on 15 May 2023.

Claimant's Application for an Additional Costs Award

4. The Claimant's correspondence of 15 May 2023 made an additional application for an award of costs in relation to what it says is further unreasonable conduct by the Respondents in relation to its reconsideration application. The Respondents have not responded to this application.

Submissions and Correspondence

5. The Respondents' submissions in relation to this application can be summarised as follows:
 - 5.1 The Respondents' conduct does not meet the threshold of conduct which is vexatious, abusive, disruptive or otherwise unreasonable as is required for an order for costs to be made.
 - 5.2 The Respondents reiterate that it was reasonable for them to take the position that service had not been effected upon them.
 - 5.3 The Tribunal may have described the Respondents actions as inadequate and stated that they should have taken more urgent and meaningful steps, but it did not describe the behaviour as unreasonable, which it could have done.
 - 5.4 The incurrence of additional costs by the Claimant was not necessarily caused by the actions of the Respondents. The Preliminary Hearing of 18 January 2023 had already been listed from the outset to discuss case management issues and the submission of the ET3 and extension of time was one such issue.

6. The Tribunal has reviewed the Claimant's correspondence which takes the position that the points raised by the Respondents have largely been addressed in the Tribunal's Case Management Order sent to the parties on 16 March 2023.

Conclusions and Decision

Respondents' Application for Reconsideration

7. The Tribunal has considered the Respondents' application including the documents as set out above and the submissions of the parties.
8. As pointed out by the Claimant, many of the submissions made by the Respondent have been addressed in the Tribunal's Case Management Order. The Tribunal made findings in relation to the actions of the Respondents. Whilst it did not use the word unreasonable in that document, this is not determinative.
9. Reasonableness is a matter of fact for the Tribunal and should be given its ordinary meaning. As summarised in the Case Management Order, the Respondents' conduct was inadequate in a number of areas and the Tribunal considers that this amounted to unreasonable conduct pursuant to Rule 76(1)(a).
10. Whilst the Tribunal accepts that the Preliminary Hearing of 18 January 2023 was already listed to discuss case management issues, it does not accept that this means that the Respondents' conduct did not cause additional work and costs to be incurred. It is clear that had the Respondents' acted reasonably and taken more urgent and meaningful steps, additional costs would have been avoided.

11. There is nothing in the Respondents' application that has convinced the Tribunal to reconsider the Costs Order dated 21 April 2023. The Respondents' application is rejected.

Claimant's Application for an Additional Costs Award

12. The Tribunal has considered this further application in accordance with Rule 76.

13. The Tribunal does not find that it was unreasonable behaviour for the Respondents' to make an application for reconsideration or to submit additional information by correspondence on 9 May 2023. This is part of normal litigation procedure. Therefore, it is not appropriate for the Tribunal to exercise its discretion pursuant to Rule 76.4. the Claimants' further application for a costs award is rejected.

Employment Judge S Connolly

11 July 2023

Sent to the parties on:

11/07/2023

For the Tribunal Office: