



EMPLOYMENT TRIBUNALS

Claimant: Mr U Ali Dogar

Respondent: I & I Team Lt t/a Pizza Hut

UPON APPLICATION made by letter dated 28 December 2017 to reconsider the judgment sent to the parties on 21 December 2017 under rule 71 of the Employment Tribunals Rules of Procedure 2013, and without a hearing,

JUDGMENT

1. The judgment sent to the parties on 21 December 2017 is revoked.
2. The final hearing will be re-listed on a date to be notified to the parties.

REASONS

1. The final hearing was listed for 10 a.m. on 18 December 2017. Neither party had attended by 10.15 a.m. and the claimant had not contacted the tribunal to say he was delayed. The judge, therefore, dismissed the claim under rule 47 of the Employment Tribunals Rules of Procedure 2013 for failure of the claimant to attend the hearing.

2. After the judge had dismissed the claim, the tribunal received a telephone call from someone saying she was the claimant's sister and that the claimant was running late. Later that morning, the claimant arrived at the tribunal. The judge saw the claimant and explained that she had dismissed the claim but he could apply for a reconsideration if there was a good reason that he had not attended on time. The claimant told the judge that he had not arrived in time because the trams were not working. He said he had not telephoned before 10 a.m. because he thought it would make it on time.

3. By letter dated 28 December 2017, the claimant applied for a reconsideration of the judgment dismissing his claim. He wrote that he had been late because the metrolink had been stopped for 35 minutes due to a signal failure. He wrote that

his grandmother had died on 24 September 2017 and he had been suffering from depression since that time. He said he now had all the evidence to back up his claim.

4. By a letter dated 18 January 2018, the judge expressed the provisional view that the application to reconsider judgment should be granted because it appeared that problems with transport delayed the claimant's attendance at the hearing on 18 December 2017 and it was in the interests of justice that his complaints about being underpaid and not receiving itemised payslips should be considered on their merits. The judge gave the respondent an opportunity to write in saying why the judgment should not be reconsidered and both parties were invited to set out their views on whether the application could be determined without a hearing.

5. Neither party requested an oral reconsideration hearing. The respondent wrote on 22 January 2018 expressing the view that the judgment should not be reconsidered. The respondent referred to the claimant not having provided information in compliance with case management orders.

6. I do not have any information on the basis of which I can conclude that the claimant's case has no reasonable prospect of success if I revoke the judgment and allow the case to be heard on its merits. Whilst the claimant did not attend the hearing on time, he attended later that morning. I have no reason to doubt that he experienced transport difficulties on the morning of the hearing which prevented him attending on time. Whilst the claimant may have failed to comply with case management orders in relation to preparation for the last hearing, I consider a fair trial is still possible. I consider it in the interests of justice that the claim should be determined on its merits. I, therefore, revoke the judgment. The case will be re-listed for hearing. Revised case management orders will also be issued. If the claimant fails to comply with these orders, his case could be struck out for non-compliance with the orders. The respondent must also comply with the orders and failure to do so could result in the response being struck out.

Employment Judge Slater

2 March 2018