



EMPLOYMENT TRIBUNALS

Claimant: Mr L Simeone
Respondent: First Great Western Ltd

JUDGMENT

1 The Claimant's application dated 17 October 2017 for reconsideration of the judgment sent to the parties on 12 October 2017 dismissing the claim is refused.

2 The Claimant's application for reconsideration of the judgment that he is to pay the Respondent's costs of £2,500 will be reconsidered on paper. The Claimant is to provide to the Respondent and the Tribunal by **28 November 2017** detailed evidence of his means. This should set out all his assets, income and outgoings and be supported by documentary evidence.

3 The application to vary the order to refuse his application to amend is refused.

REASONS

1 There is no reasonable prospect of the decision dismissing the claim being varied or revoked. The claim was struck out because the complaints had not been presented in time and the Judge did not consider that it would be just and equitable to consider them nonetheless. The Claimant could have attended and put forward any arguments that he wanted to oppose the claims being dismissed. The reason that he gave for his non-attendance at the time (in a telephone call and email that he sent to the Tribunal on 12 October 2017) was that he was not aware of the hearing. The Employment Judge did not accept that explanation. The Claimant had been present at the preliminary hearing on 11 September when the preliminary hearing on 12 October had been fixed, he was sent a note of that hearing which set out the date of the preliminary hearing and he had submitted a skeleton argument on 5 October 2017.

2 In his application for reconsideration the Claimant gives a different reason for his non-attendance, namely the confusion and exhaustion arising from his illness.

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There is no medical evidence to support that assertion. The only medical evidence that the Claimant has produced is a medical certificate that he was unfit to work at the time of the hearing because of "work related stress and anxiety". That has been the position for some time but the Claimant has attended hearings and participated in the process and has never said that he was unable to do so because of ill-health.

3 Even though the Claimant did not attend the hearing careful consideration was given to the application to dismiss the claim and to his application to amend. I took into account his skeleton argument and the arguments put forward by the Respondent.

4 Having taken into account all the above matters, I do not consider that it is in the interests of justice to reconsider that decision.

5 The Claimant has said in his application that the costs order will lead to him losing his home and becoming homeless. I am prepared to reconsider that decision on paper if the Claimant provides more detailed evidence of his means. The Respondent will have an opportunity to comment on that on paper. I consider that it would be in the interests of justice to reconsider that matter.

6 The Tribunal does not have power to reconsider case management orders. I have treated the Claimant's application in respect of that as an application to vary the order that I made refusing him leave to amend. There is nothing that the Claimant has put forward in his application that leads me to vary my original decision.

Employment Judge Grewal on 14 November 2017