

BETWEEN

DY
APPLICANT

AND

DYD
Second Applicant

AND

VB
RESPONDENT

Date of Order:

1 April 2016

Referee:

Referee Perfect

ORDER OF THE DISPUTES TRIBUNAL

The Tribunal hereby orders that leave to apply for a rehearing 'out of time' is declined and that the original order dated 18 December 2015 is restored to full effect forthwith.

Reasons

[1] In considering the application to apply for a rehearing 'out of time', I have considered the reasons for the delay in filing a rehearing application, the strength of the grounds on which the rehearing application is based and the degree of harm to the applicant in allowing the rehearing to be filed out of time.

[2] The original order was issued on 18 December 2015 following the hearing on that day. The parties had until 17 January 2016 to file a rehearing application (28 days from the date of the order). The Tribunal received the respondents' application on 3 March 2016, approximately six weeks out of time.

[3] VB says that the application was lodged late due to a misunderstanding in that he thought the lawyer at the Community Law Centre who he had consulted was filing it for him. Even though no supporting evidence has been provided on this point, on the face of it this would be an acceptable enough reason for lateness in filing, and would not by itself prevent a rehearing from being considered.

[4] However, I must consider the lateness together with the strength of the grounds for a rehearing. On this latter point, VB states that he now has evidence in the form of a letter from his second painter. He says he could not have brought this to the original hearing because of the busy Christmas period for the new painter (the original hearing was on 18 December 2015). The Disputes Tribunal claim had been filed in mid-October so I do not accept that it was impossible to obtain such a statement in the two months that VB had notice that a hearing was to occur.

[5] Given the above, it would be an unreasonable burden on the applicants to overturn the original decision as a full hearing has already been held with all parties present. Not having prepared sufficiently for a hearing is not grounds to have the matter reopened. Leave to apply for a rehearing out of time is therefore declined.