



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Mr M Longobardi

and

Respondent

Aviation Fuel Services Limited

DECISION ON APPLICATION FOR RECONSIDERATION Rules 70-73 of Schedule 1 to the Employment Tribunals (Constitution and Rules of procedure) Regulations 2013

1. The Claimant's application for reconsideration of the judgment sent to the parties on 6 April 2017 is refused.
2. Reasons for this decision are attached.

REASONS

Background

- 1 Following a Tribunal preliminary hearing held on 14 March 2017 at Reading (Employment Judge Vowles sitting alone) the Claimant's whole claim was struck out under rule 37 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013. The reserved judgment with reasons was sent to the parties on 6 April 2017. This decision should be read alongside that judgment.
- 2 In an application dated 9 April 2017 the Claimant made an application for reconsideration of the judgment.

Relevant Law

- 3 Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 -

Rule 70 Principles

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.

Rule 71 Application

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.

Rule 72 Process

(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 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. ...

- 4 In Trimble v Supertravel Ltd [1982] ICR 440 the Employment Appeal Tribunal said that on an application for review (now reconsideration), if a matter has been ventilated and properly argued during the course of Tribunal proceedings then any error of law falls to be corrected on appeal and not by way of review.
- 5 In Newcastle upon Tyne City Council v Marsden [2010] ICR 743 the Employment Appeal Tribunal said that dealing with a case justly in accordance with the overriding objective in regulation 3 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 (now rule 2 of Schedule 1 to the 2013 Regulations) required the application of recognised principles, including the principle of finality of litigation, since justice required an equal regard to be paid to the interests and legitimate expectations of both parties and that a successful party should in general be entitled to regard a Tribunal's decision on a substantive issue as final (subject, of course, to appeal).

Decision

- 6 All the matters referred to in the Claimant's application were considered at the preliminary hearing. The application is an attempt to re-argue matters which have already been determined after a hearing in which both parties were given the opportunity to put forward their cases and the Claimant gave evidence on oath. A judgment with reasons was provided.

- 7 A judgment may only be reconsidered where it is necessary in the interests of justice to do so. Reconsideration is not an opportunity for a party to apply for the case to be re-heard and re-argued because he disagrees with the decision. That would be contrary to the principle of finality in litigation.
- 8 I am satisfied that nothing new has been raised which would merit reconsideration.
- 9 There is no reasonable prospect of the judgment being varied or revoked.

Employment Judge Vowles

Date: 27 April 2017

Sent to the parties on:

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For the Tribunals Office