



# EMPLOYMENT TRIBUNALS

**Claimant**

**Respondent**

**Miss C Donaldson**

**Cassiobury Court Limited**

## JUDGMENT ON RECONSIDERATION

### Rules 70 - 73 of the Employment Tribunal Rules of Procedure 2013

Upon the claimant's application made by email of 24 October 2017 to reconsider the preliminary hearing judgment sent to the parties on 5 October 2017 under Rule 71 Employment Tribunal Rules of Procedure 2013 and without a hearing

Upon reconsideration of the preliminary hearing judgment the application to reconsider is refused as there is no reasonable prospect of that judgment being revoked.

## REASONS

### Introduction

1. By a claim form presented 21 April 2017 the claimant brought claims of unfair dismissal, race discrimination, unlawful deduction of wages and/or breach of contract. A preliminary hearing was arranged as the respondent disputed that the claimant had the right to bring an unfair dismissal complaint because it argued that she did not have two years' service and the claim was presented out of time. The preliminary hearing began on 3 August and was adjourned to 20 September 2017.
2. At the hearing, it was determined that the claimant did not have two years' service and the claim was presented one day out of time. The unfair dismissal complaint was dismissed. The complaints of unlawful deduction of wages/breach of contract were also dismissed as it was reasonably practicable for the complaints to have been presented in time. The direct race discrimination complaint was allowed to continue on just and equitable grounds and is listed for hearing in February 2018.
3. The claimant's application for reconsideration refers to race discrimination under Equality Act but that matter can proceed. The claimant also refers to the copy of the contract which I saw and considered when I came to the

judgment at the preliminary hearing. The question of the claimant's length of employment was considered at the preliminary hearing. I heard evidence and saw documents which included two versions of an employment contract. On the evidence before me I found that the claimant's employment commenced on 15 February 2015 and ended on 12 December 2016. Those were findings of fact and nothing has been said to me in the reconsideration application to cause me to doubt that finding.

**The relevant rules**

4. I have considered the matter under the reconsideration rules in Employment Tribunal Rules of Procedure 2013 as above. There is a 14 day period for a party to apply in writing for a reconsideration. The application was made after that period had expired but it seems sensible to give it due consideration in the circumstances.
5. The judge must consider whether it is in the interests of justice to reconsider the judgment and, if so, can confirm, vary or revoke that judgment. Rule 72 provides that an employment judge shall refuse the application if there is no reasonable prospect of the judgment being varied or revoked.

**Reconsideration conclusions**

6. It is not in the interests of justice to reconsider the judgment made at the preliminary hearing. The matter was fully considered at the hearing. I heard evidence, saw documents and heard argument from both sides. I do not believe that there is any new information in the application. It is not in the interests of justice to reconsider an issue which has been properly decided.
7. There is no reasonable prospect of the preliminary hearing judgment being revoked. The claimant does not have the right to bring an unfair dismissal complaint because she did not have two years' service. The direct race discrimination complaint can proceed.

Dated 13 December 2017

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**Employment Judge Manley**  
**South East Region**

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**Judgment sent to the parties on**

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**For Secretary of the Tribunals**