



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Respondent

AND

Miss A Behan

Lidl Limited

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

ON 19 March 2018

EMPLOYMENT JUDGE A Goraj

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The Judgment of the tribunal is that the claimant's application for reconsideration is refused because (a) the application for reconsideration was not received within 14 days of the date upon which the written reasons were sent to the claimant and (b) there is, in any event, no reasonable prospect of the Judgment sent to the parties on 28 November 2017 being varied or revoked.

REASONS

1. The claimant has applied for a reconsideration of the judgment dated 15 November 2017 which was sent to the parties on 28 November 2017 ("the Judgment"). The written reasons for the Judgment were sent to the claimant on 15 January 2018. The grounds for the claimant's application are set out in a document dated 17 February 2018 which was received at the tribunal on 22 February 2018 ("the application").

2. Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure 2013 (“the Rules”). Under Rule 71 an application for reconsideration under Rule 70 must be made within 14 days of the date on which the decision (or, if later, the written reasons) were sent to the parties. The written reasons were sent to the claimant on 15 January 2018 and the application was received by the tribunal on 22 February 2018. The application was therefore not received within the relevant time limit.
3. Having considered the application the Employment Judge refuses it on the grounds that (a) the application was not received within the time limit prescribed by Rule 71 of the Rules (b) the application did not contain any application to extend time or any proper explanation for the delay including why the email from the Citizen’s Advice Bureau (“the CAB”) to the claimant dated 8 May 2017 which accompanied the application had not been submitted at an earlier date.
4. The Employment Judge is, in any event, satisfied that there is no reasonable prospect of the Judgment being varied or revoked for the reasons explained below.

THE LAW AND THE CONCLUSIONS OF THE TRIBUNAL

THE LAW

5. The tribunal has had regard in particular to:-
 - (a) Rules 70 -73 of the Rules referred to above including, that the grounds for reconsideration are limited to those set out in Rule 70, namely that it is necessary in the interests of justice to do so. The interests of justice apply to both parties.
 - (b) The Employment Judge is (a) required to consider as a preliminary matter pursuant to Rule 72 (1) of the Rules whether there is any reasonable prospect of the relevant decisions being varied or revoked and (b) if not so satisfied to dismiss the application at that stage.
 - (c) The guidance contained in **Trimble v Supertravel Ltd [1982] ICR 440 EAT**, including that if a matter has been ventilated and argued at a tribunal hearing any error of law falls to be corrected on appeal and not by review.

THE CONCLUSIONS OF THE TRIBUNAL

6. The respondent contended in its response dated 7 August 2017 and in its accompanying letter of application of the same date, which was copied to the claimant, that the claimant's claims had been presented outside the statutory time limit and that this should be considered as a preliminary issue of jurisdiction. The claimant therefore had plenty of opportunity to prepare her case regarding such issue including to consult with the CAB and obtain any relevant documentation.
7. The claimant was given an opportunity during the hearing on 15 November 2017 to endeavour to contact the CAB/ access her emails and also to apply for an adjournment to adduce further information which she declined (paragraph 13 of the Reasons).
8. Still further, although the email which the claimant has now provided from the CAB (which appears to be dated 8 May 2017) refers to a meeting on 15 May 2017 it is clear from paragraph 8.2 of the claimant's claim form that she had initially sought advice from the CAB prior to the commencement of early conciliation via ACAS which the ACAS Early Conciliation Certificate confirms was initiated on 20 March 2017.
9. In all the circumstances the Employment Judge is, satisfied that there would in any event have been no reasonable prospect of the Judgment being revoked or varied

Employment Judge A Goraj
Dated 19 March 2018