



EMPLOYMENT TRIBUNALS

Claimant: Miss Y Laidlow-Weir

Respondent: Finesse Bridal Ltd

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The judgment of the Tribunal is that the respondent's application for reconsideration is refused because there is no reasonable prospect of the decision being varied or revoked.

REASONS

1. The respondent has applied for a reconsideration of the judgment sent to the parties on 9 April 2018 following a hearing on 4 April 2018 ("the Judgment"). The Judgment wrongly showed the hearing date as 4 April 2017.
2. The grounds for the application for reconsideration are set out in the respondent's letter dated 20 April 2018. That letter was received on the same day as the Tribunal's Reasons for its Judgment were sent out to the parties, following a request for reasons from the respondent.
3. Rule 71 of the Employment Tribunals Rules of Procedure 2013 provides that 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 application was therefore received within the time limit.
4. The principles governing reconsideration of a judgment are set out in Rule 70, namely where it is necessary in the interests of justice to do so.
5. No further representations have been received from the claimant.
6. The grounds relied upon by the respondent appear to be: 1) that there is photographic and documentary evidence which could be provided which supports the respondent's case that it was entitled to dismiss summarily for gross misconduct and 2) that it paid or overpaid the claimant for days of sickness. Next, 3) the respondent appears to challenge the legal basis for the additional award of 2 weeks' pay for not providing a statement of

particulars. Finally, 4) the respondent also expresses surprise that a claim which began with one of “ageism” ended as it did.

7. The matters raised by the respondent fall into 4 categories. As to 1) new evidence, the respondent wholly overlooks the fact that there was a case management hearing in the proceedings on 8 January 2018, which it did not attend. Employment Judge Nicol ordered sequential disclosure of documents by first the claimant and then the respondent with a view to agreement of a single bundle ahead of the hearing. The Tribunal was critical of both parties’ lack of cooperation in this at the hearing but nonetheless proceeded to deal with the claims on the basis of evidence which was before it, rather than other documentation which should have been disclosed but was not available. The long-established principles in Ladd v Marshall [1954] 1 WLR 1489 and Flint v Eastern Electricity Board [1975] IRLR 277 mean that no reconsideration should be granted simply because the party “wants a second bite of the cherry” by putting forward documents which it could readily have put forward earlier.
8. As to 2) and 3), the Tribunal does not understand the relevance of the respondent’s reference to sick pay. Even if the respondent was generous in paying for sickness days without evidence such as of self-certification, the Tribunal awards were of an agreed sum of outstanding wages and a week’s pay in lieu of notice, with an additional award for non-provision of the statements of particulars. Any challenge to the legal basis of the latter award should be made by appeal rather than application for reconsideration, but again it appears the respondent seeks to rely upon new evidence which clearly was available earlier for disclosure and production at the hearing.
9. The respondent’s final concern about the proceedings beginning with an “ageism” claim is dealt with at Paragraph 1 of the Reasons.
10. Accordingly the Tribunal refuses the application for reconsideration pursuant to Rule 72(1) because there is no reasonable prospect of the Judgment being varied or revoked.

Regional Employment Judge Parkin

Date: 25 April 2018

JUDGMENT SENT TO THE PARTIES ON

25 April 2018

FOR THE TRIBUNAL OFFICE