



EMPLOYMENT TRIBUNALS

Claimant: Miss L Boiko

Respondent: Flamingo Flowers Limited

JUDGMENT

The Claimant's application for reconsideration initially made on 12 September 2018 and repeated on 20 September 2018 is refused because it is out of time.

REASONS

1. By email of 12 September 2018, Miss Boiko asked for a review of her case. That review was addressed to Regional Employment Judge Swann.
2. Regional Employment Judge Swann responded by email of 19 September as follows:

“....

I refer to your letter sent by email of 12 September with a number of attachments that has been address to me in respect of the above case and also submitted to the Employment Appeal Tribunal in regard to the appeal you lodged before the EAT. It will be a matter for the EAT to respond to you direct in respect of the matters you have asked them to consider. Within the narrative of your email letter, you set out a request for your case to be reviewed (ie reconsidered) by the Employment tribunal.

In accordance with Rule 71 of the Employment Tribunal Rules of Procedure 2013, any application for reconsideration of a judgment (if it is not made during the course of a hearing) should be presented in writing and copied to all the other parties within 14 days of the date on which the 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 to set out fully why the reconsideration of the original decision or judgment is necessary.

The three judgments in relation to your case before the Employment tribunal consist of the reserved liability judgment that was sent to the parties on 4 July 2016, the remedy judgment sent to the parties on 31

October 2016 and the judgment on costs sent to the parties on 20 May 2017.

In respect of an earlier reconsideration application that you appear to have made in correspondence, your daughter (who went on record as representing you) then advised the tribunal by correspondence on 23 January 2017 (copying the same to the Respondent) that you as a party did not want to proceed with a reconsideration of the matters that had by then been determined.

Nevertheless as your letter addressed to me of 12 September 2018 sets out a further request for a review or reconsideration of your case at Nottingham, I have now forwarded this to Employment Judge Blackwell who was the presiding Judge in the above hearings in accordance with the Rules of Procedure 2013 (referred to above) in order for him to consider the same and respond accordingly.

In regard to the attached documents which appear to also relate to the Employment Appeal Tribunal appeal that you lodged, for ease of convenience I attach a further copy of the summary determination made by His Honour Judge David Richardson (which I submitted to you earlier) dated 7 June 2018 dismissing your appeal to the EAT and also a further order dated 10 September dismissing your application for a review of that decision.

...

3. Miss Boiko responded to that email on 20 September. She repeats that she wishes the ET and EAT judgments to be reconsidered. I can only deal with the decisions of the tribunal which I chaired, which were respectively a reserved liability judgment sent to the parties on 4 July 2016, the remedy judgment sent to the parties on 31 October 2016 and the judgment on costs sent to the parties on 20 May 2017. The relevant provision is Rule 71 of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013. This reads as follows:

“Application

71. 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.”

4. Thus, none of the applications for reconsideration have been brought within the 14 day time limit of the date on which they were sent to the parties. The time limit in respect of the merits judgment which led directly to the two other judgments expired in July 2016.

5. In Rule 5 of the 2013 Regulations is a general power to extend time which in my view does extend to the limit under Rule 71.

6. However, I see nothing in Miss Boiko's emails of 12 and 20 September that would persuade me to exercise my judicial discretion to extend time. There is nothing in those emails that is new. I therefore refuse Miss Boiko's applications for a reconsideration of any or all of the above decision because such applications are out of time.

Employment Judge Blackwell

Date: 08 October 2018
JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE