



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr K Sidapara

Metroline Limited

JUDGMENT ON RECONSIDERATION

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

Upon the claimant's application made on 19 September 2018 to reconsider the costs judgment sent to the parties on 5 September 2018 under Rule 71 Employment Tribunal Rules of Procedure 2013 and without a hearing:-

The application to reconsider is refused as there is no reasonable prospect of the judgment being varied or revoked.

REASONS

Introduction

1. The history of the above claim is set out in various preliminary hearing judgments but most comprehensively in the reserved preliminary hearing judgment sent to the parties on 28 June 2018. A judgment on reconsideration for that hearing sent to the parties on 5 September 2018 also made reference to the history. I shall not repeat it here.

Application for reconsideration

2. After the reserved preliminary hearing judgment was sent to the parties, the respondent made an application for costs on 27 July 2018 with the claimant setting out his opposition to a costs award on 17 August 2018.
3. The judgment on costs summarises the parties' submissions. The claimant has now applied for reconsideration of that costs judgment and asked that it be stayed. The respondent has been given an opportunity to comment and did so by email of 14 October 2018.

4. In summary, the claimant states that he has appealed to the EAT; that there was no finding that his claims were misconceived; that there was no costs warning letter; that the respondent has not suffered prejudice; that the respondent has often written lengthy emails and not spent time on responses and it has alleged; that a skeleton argument by the respondent was 4 days late; that I have misunderstood the case and ignored case law.
5. The respondent submits that the claimant's application for reconsideration has no legal basis and, if anything, the award should be increased. It also points to significant disagreement with points made by the claimant, not least, that there were direct warnings to the claimant in April and May 2017 which stated that it would seek to recover costs. It also reiterates that it was forced to spend time commenting on and responding to lengthy emails sent by the claimant.

Rules

6. The relevant employment tribunal rules for this application read as follows:

RECONSIDERATION OF JUDGMENTS

Principles

70. 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.

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.

Process

72.—(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 already 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.

(2) If the application has not been refused under paragraph (1), the original decision shall be reconsidered at a hearing unless the Employment Judge considers, having regard to any response to the notice provided under paragraph (1), that a hearing is not necessary in the interests of justice. If the reconsideration proceeds without a hearing the parties shall be given a reasonable opportunity to make further written representations.

(3) Where practicable, the consideration under paragraph (1) shall be by the Employment Judge who made the original decision or, as the case may be, chaired the full tribunal which made it; and any reconsideration under paragraph (2) shall be made by the Judge or, as the case may be, the full tribunal which made the original decision. Where that is not practicable, the President, Vice President or a Regional Employment Judge shall appoint another Employment Judge to deal with the application or, in the case of a decision of a full tribunal, shall either direct that the reconsideration be by such members of the original Tribunal as remain available or reconstitute the Tribunal in whole or in part.

7. My task is to consider whether reconsideration of the costs judgment is in the interests of justice. Where I consider there is no reasonable prospect of the decision being varied or revoked, under Rule 72, the application shall be refused.

Conclusions

8. This application for costs and the claimant's response was considered by me on the papers. Detailed submissions were made by the claimant and the respondent's representative. The application for reconsideration repeats some of the information contained in the email sent by the claimant before I made the judgment on costs and it re-argues that which I have already considered and decided. The application provides no clear reason as to why the claimant believes that it would be in the interests of justice to reconsider the costs judgment.
9. The claimant is unhappy that he has been ordered to pay a relatively modest share of the respondent's costs which were estimated at between £6,677 and £18,210. The fact that the claimant has appealed to the EAT cannot affect the judgment and I have no power to grant a stay. There is no case law which states that a "costs warning" letter need be sent, and, in any event, the claimant was clearly warned by the respondent that it did intend to make a costs application.
10. There is nothing in what is now said which indicates that it is in the interests of justice to re-open matters. I must refuse this application as there is no reasonable prospect of the judgment on costs being varied or revoked.

Dated: 05.11.18

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Employment Judge Manley
South East Region

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Judgment sent to the parties on 16.11.18

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For Secretary of the Tribunals