



EMPLOYMENT TRIBUNALS

Claimant: Mr B D Breach

Respondent: Hallmartin Limited (In administration)

JUDGMENT ON RECONSIDERATION

In exercise of the power conferred upon me by Rule 72(1) of the Rules of Procedure set out in Schedule 1 to The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 I refuse the application for a reconsideration by the claimant contained in his letters dated 6 August 2018 and 13 September 2018 of the judgment, sent to the parties on 28 May 2013, because the application has no reasonable prospect of success.

REASONS

1. The application should have been made within 14 days of the judgment being sent to the parties and it was not so made. It is made out of time, by more than 5 years.
2. The claimant seeks to amend the name of the respondent to John Sam Rose/JS Management/Prime Bake Limited. He requests to do this without pursuing an application for reconsideration of the judgment.
3. None of those parties were named as respondents in the original claim.
4. Judgment was entered against Hallmartin Limited (in administration) following a hearing on 21 May 2013.
5. The claims were of:
 - 5.1 unfair dismissal;
 - 5.2 unlawful deduction from wages;
 - 5.3 breach of the contract of employment

6. The correct respondent in each claim is the employer at the time of the dismissal and unlawful deduction from wages.
7. Findings were made including that:
 - 7.1 the claimant was employed by the named respondent, Hallmartin Ltd (administration);
 - 7.2 the claimant was dismissed by the named respondent and the effective date of termination was 11 May 2012;
 - 7.3 at the date of termination of employment the named respondent had failed to pay to the claimant outstanding wages in the net sum of £36,919.05
8. At no time during the hearing did the claimant question the correct identity of the respondent. That was not an issue for determination by the tribunal.
9. The claimant was legally represented at that hearing.
10. In his application the claimant recounts difficulties in enforcing the judgment of the tribunal. He asserts that on 4 September 2012 Hallmartin Ltd was purchased by Perfect Confectionery Ltd. It is not clear if it is asserted that there was a share purchase or a purchase of the assets or the purchase of a business. In any event, this event postdated the date of termination of employment with the named respondent and the unlawful deduction from wages.
11. Hallmartin Ltd was dissolved on 5 April 2015.
12. It is not in the interests of justice for the claimant to reopen this case, to join new parties, because of difficulties encountered in the enforcement of the tribunal's award against Hallmartin Ltd.
13. An award of this tribunal is enforced in the County or High Court. Liability for the debts of any named respondent in tribunal proceedings is a question relating to enforcement. A subsequent sale of the business by the named respondent to a third party does not justify a change in the name of the respondent in this claim, correctly identified at the time of the dismissal and unlawful deduction from wages.
14. I cannot find that the interests of justice require such a reconsideration.
15. There must be finality in litigation.

Employment Judge Porter

Date: 28 September 2018

JUDGMENT SENT TO THE PARTIES ON

11 October 2018

FOR THE TRIBUNAL OFFICE

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