EMPLOYMENT TRIBUNALS

Claimant: Richard Lum

Respondent: The Jubilee Mint Ltd

Heard at: **Exeter** **On:** **04 February 2019**

Before: **Employment Judge Housego**

Representation
Claimant: Letter requesting reconsideration
Respondent: None

JUDGMENT ON APPLICATION FOR RECONSIDERATION

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

REASONS

1. The claimant has applied for a reconsideration of the reserved judgment dated 17 January 2019 which was sent to the parties on *[insert date please]* ("the Judgment"). The grounds are set out in his letter dated 28 January 2019. That letter was received at the Tribunal office on the same day, it being sent by email.

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 application was therefore received within the relevant time limit.

3. Under Rule 5 the Tribunal may, on its own initiative or on the application of a party, extend or shorten any time limit specified in the Rules or in any decision, whether or not (in the case of an extension) it has expired.

4. The grounds for reconsideration are only those set out in Rule 70, namely that it is necessary in the interests of justice to do so. The grounds relied upon by the claimant are several:

5. First, the claimant seeks to adduce more evidence to show that Mr Meade asked 2 questions in the form that he set out in his claim form. This is no more than to disagree with the Tribunal's decision. The "new evidence" referred to is not a basis for reconsidering a judgment. There must be finality and absent a very good reason (and an example (not related to this case) would be if a person read a report in a newspaper and sent in something of which a claimant could not have been aware) it is not for a claimant to try to get an adverse decision reversed by trying to argue it again with more evidence. This section also refers to the length of time that it took the claimant to file his claim. The judgment refers to this only by observing that this was entirely the right of the claimant. It also refers to the later addition of perceived disability: no point adverse to the claimant was taken by reason of this.

6. Secondly it is said to have been procedurally unfair to admit new evidence from the respondent at the hearing, as the claimant says he did not know that he could seek an adjournment to deal with such evidence. He refers to pages 27 and 41 of the bundle (in his footnote 5), but without explanation as to why it was unfair to him to allow these documents in (if that is what occurred).

7. Thirdly, the claimant wishes to have new evidence considered. He explains that some of it "was hidden in one of the many zipped wallets that I possess at my home address". That the claimant had hidden it in a zipped wallet and was unable to find it before the hearing is not a reason to reconsider the judgment. Nor are the documents themselves of much probative value. Others he has obtained from CAB after a subject access request. The CAB was advising him, and this can be no reason to consider reconsidering a judgment. The claimant also says that he has now recalled something else said to him. The claimant failed to mention it while giving his evidence to the Tribunal. It is not a reason to reconsider a judgment that the claimant wants to augment the oral evidence he gave at the hearing.

8. Fourthly, the claimant disagrees with part of the judgment. It is far from unusual for a losing party to disagree with the Tribunals findings of fact or conclusions. That is not a reason to reconsider a judgment.

9. The fifth reason put forward "I am of the view that the new evidence put forward…" takes the matter no further, as first the possibility of new evidence is dealt with in the third point, above, and secondly the view of the claimant is not the determinative factor. The rest of this section seeks to reargue the case at some length, which is not a permissible reason to seek a reconsideration.

10. The matters raised by the claimant were considered in the light of all of the evidence presented to the tribunal before it reached its unanimous decision. The claimant simply does not agree with the decision. The Employment Appeal Tribunal ("the EAT") in Trimble v Supertravel Ltd [1982] ICR 440 decided that if a matter has been ventilated and argued then any error of law falls to be corrected on appeal and not by review. In addition, in Fforde v Black EAT 68/60 the EAT decided that the interests of justice ground of review does not mean *"that in every case where a litigant is unsuccessful he is automatically entitled to have the tribunal review it. Every unsuccessful litigant thinks that the interests of justice require a review. This ground of review only applies in the even more exceptional case where something has gone radically wrong with the procedure involving a denial of natural justice or something of that order".* This is not the case here. In addition it is in the public interest that there should be finality in litigation, and the interests of justice apply to both sides.

11. Accordingly I refuse the application for reconsideration pursuant to Rule 72(1) because there is no reasonable prospect of the Judgment being varied or revoked.

Employment Judge Housego

Dated 04 February 2019