



EMPLOYMENT TRIBUNALS

Claimant

Miss N Ocekci

v

Respondent

Tom Paxman

Heard at: Bury St Edmunds

On: 13 December 2018

Before: Employment Judge KJ Palmer

Appearances

For the Claimant: No attendance

For the Respondent: Miss A Rokad, Counsel

RECONSIDERATION OF A JUDGMENT

The Claimant's application dated 20 February 2019 for a reconsideration of the Judgment made on 13 December 2018 is refused.

REASONS

1. Rule 70 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, Schedule 1 (the "**Employment Tribunal Rules**") allows a Tribunal on the application of a party to reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration it is open to the Tribunal to confirm, vary or revoke the original decision.
2. Rule 71 requires an application to be made in writing and copied to the other party within 14 days of the original decision.
3. Rule 72 provides that an Employment Judge shall consider any application made and if he or she considers there is no reasonable prospect of the original decision being varied or revoked the application shall be refused.
4. In this case I gave Judgment at a preliminary hearing at the Bury St Edmunds Employment Tribunal on 13 December 2018. The Judgment

with reasons was sent to the parties on 20 February 2019. By an email received the same day, 20 February 2019 timed at 12.45 p.m. the Claimant in person asked for a reconsideration of that Judgment. That application for reconsideration did not comply with Rule 71 as it appears that copies were not sent to those representing the Respondent.

5. Therefore on strict interpretation of Rule 71 the Claimant has not complied and there is no obligation upon me to consider the application.
6. Moreover the application does not descend into detail save to say that the Claimant was poorly represented and did not get the opportunity to have her discrimination case heard fairly. She enclosed with the application a number of emails.
7. Having read those emails it seems to me that it is clear that the Claimant's application is based upon the fact that she says she was poorly represented and was not aware that the preliminary hearing originally due to take place at 2.00 p.m. on 13 December had been moved up to 10.00 a.m.
8. In the circumstances and in light of the fact that the Claimant is no longer represented by the Merseyside Employment Law Consultancy I have decided to overlook the failure of the Claimant to copy the Respondent's representatives into her application for a reconsideration and will therefore consider it.
9. I have therefore considered her application on its merits having considered the somewhat perfunctory nature of the application itself but also having regard to the emails attached.
10. It appears clear that the Claimant was not informed by her representatives that the matter had been moved up to 10.00 a.m. They clearly were aware of it and were relying entirely on an application of theirs of 11 December to convert the hearing to a telephone hearing.
11. In my Judgment I explain in detail the sequence of events and set out my reasoning as to why it was clear that those representing the Claimant and indeed the Claimant were aware that the nature of the hearing to take place on 13 December was to include the Respondent's application for a strike out.
12. It does appear likely that the Claimant was unaware having not been told by her representatives that the hearing had been moved up to 10.00 a.m.
13. However, her representatives were clearly aware and should have attended.
14. They were clearly on the record for the Claimant having informed the Tribunal by letter dated 19 September 2018 that they were so.

15. Having mind to the overriding objective even if it is the case that the reason the Claimant was unaware of the hearing being moved up was that her representatives had failed to tell her that of itself does not in my judgement constitute sufficient grounds for me to vary or revoke my original Judgment.
16. The Merseyside Employment Law Consultancy were on the record. They were representing the Claimant. They were fully aware of the nature of the hearing on 13 December at 10.00 a.m.
17. Accordingly and for the above reasons there is no reasonable prospect of my original Judgment being varied or revoked and I must refuse the Claimant's application.
18. The costs hearing will be relisted and will be heard on **Monday 29 July 2019**. I would stress that in light of that which I have seen to date it is possible that a costs order may be made by way of a wasted costs order against those representing the Claimant but that will be a matter for submissions and consideration at that hearing.

Employment Judge KJ Palmer

Date: 23 April 2019

Sent to the parties on:

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For the Tribunal Office