



EMPLOYMENT TRIBUNALS

Claimant

Ms. R. Chukwu

Respondent

North Middlesex University Hospital

v

APPLICATION FOR RECONSIDERATION: DECISION

The application for reconsideration is refused.

REASONS

Background

1. By a judgment sent to the parties on 29 September 2018 I dismissed the claimant's complaints about unfair dismissal, sex, race and age discrimination, unpaid redundancy payment, breach of contract and unpaid holiday pay.
2. By email dated 24 October 2018, the respondent made an application for costs. This application was listed for hearing before me on 4 March 2019.
3. The claimant did not appear and was not represented at that hearing. I made an order for costs against the claimant in the sum of £7746.98. The document recording that order was sent to the parties on 11 March 2019.
4. By email dated 18 March 2019 the claimant's representative made an application in time on her behalf for a reconsideration. The claimant did not copy the respondent into the application for reconsideration.

Law

5. By rule 70 of the Employment Tribunal's (Constitution and Rules of Procedure) Regulations 2013 an employment judge may 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 may be confirmed, varied or revoked.
6. By rule 71, an application made after a hearing shall be presented in writing and copied to the other parties within 14 days of the date on which the record

of the original decision was sent to the parties. The application shall set out why reconsideration of the original decision is necessary.

7. By rule 72 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, the application shall be refused and the tribunal shall inform the parties of the refusal.

The application

8. The application reads as follows:

'Application to stay in this application for reconsideration of the order made against me on the 4th by Judge Heal.

Grounds for this reconsideration application

- 1.) *The prima facie matter was not dealt with by the court*
- 2.) *The defendant wrongfully dismissed the Claimant on spurious and fabricated and manipulated evidence and incurred cost whilst defending this wrongful deed*
- 3.) *This court accepted the claimant application and set the hearing date (section 52 County Courts Act 1984).*
- 4.) *Misdirection by the court*
- 5.) *The court has refused to exercise its authority to hear the case before it rather the court was misled with issue of ACAS which the its self-had accepted the ACAS certificate and fixed the hearing.*
- 6.) *The claimant has transferred the proceedings to the High via the application in the High Court.*
- 7.) *The claimant unemployed with no income as a consequence of the defendant's wrongful action.'*

9. I have considered this application for reconsideration and I refuse it because there is no reasonable prospect of the original decision being varied or revoked. The decision in question is the costs decision only.

10. The claimant has not asked for written reasons of either the original decision or the costs decision. Without giving full written reasons, in brief the chronology was as follows.

11. The claimant's last day of service, agreed by both parties, was 6 June 2017. Both parties agreed that three months less one day from that date was 5 September 2017. Day A was 17 October 2017 and Day B was 1 November 2017. The first claim form was presented to the tribunal and not accepted on 24 July 2017. That claim was rejected on 7 September 2017. On 14 September the claimant made an application for reconsideration of that rejection and that application was rejected on 5 October 2017. On 1 November 2017 the claimant sent an early conciliation certificate to the tribunal and on 12 December 2017 the claim was therefore accepted.

12. The respondent therefore submitted that the claims had not been presented within the relevant statutory time limit and it invited the tribunal to dismiss the claims.
13. I did dismiss the claims because they were out of time, because it was reasonably practicable for to the claimant to present her claims in time and/or because she had not put forward any cogent explanation as to why it was just and equitable to present any discrimination claims earlier.
14. Again, without giving full written reasons for the costs decision, in brief I decided that to issue proceedings in these circumstances was unreasonable as it was obvious that the claim was out of time, the claimant had not contacted ACAS when she presented her first claim and she did not present any cogent explanation as to why she did not do that. Given the chronology it was reasonably practicable to present her claim in time and she put forward no cogent explanation as to why it was just and equitable to present her discrimination claim when she did.
15. I now turn to the individual grounds of the application for reconsideration.
16. The 'prima facie matter' was not dealt with in the tribunal because the claim was out of time.
17. Therefore, no findings have been made about the merits of the dismissal.
18. The County Courts Act 1984 is not relevant to the jurisdiction of the tribunal. By the time the claim was accepted by the tribunal, it was out of time.
19. The claimant has not specified how she says the tribunal has misdirected itself.
20. The tribunal has not 'refused to exercise its authority to hear the case' but did not have jurisdiction to hear the case. In any event, any application for reconsideration arising out of the original decision is made out of time and the claimant has not set out any reasons why the tribunal should extend time to decide that application for reconsideration. In those circumstances, I would not extend time.
21. The claimant has not transferred proceedings to the High Court. It appears that an application has been made to another court but that does not have the effect of transferring proceedings.
22. The tribunal does not have jurisdiction to decide whether the claimant is unemployed with no income as a consequence of the defendant's alleged wrongful action because the claims were presented out of time.
23. None of those matters have any bearing on the costs decision. In any event, the points made are without merit. For those reasons, there is no reasonable prospect of the original decision being varied or revoked and I refuse the application for reconsideration.

Employment Judge Heal

Date:02.05.19.....

Sent to the parties on:17.05.19.....

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For the Tribunal Office