



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant: Miss J Waite

Respondent: Commissioners for Her Majesty's Revenue and Customs

JUDGMENT OF THE EMPLOYMENT TRIBUNAL ON AN APPLICATION FOR RECONSIDERATION OF A JUDGMENT

The application for reconsideration of a Judgment by the claimant contained in an email from the claimant dated 8 July, 2019, is refused in accordance with Rule 72(1) of the Employment Tribunal Rules of Procedure, 2013, on the ground that there is no reasonable prospect of the Judgment being varied or revoked

REASONS

1 By an email from the claimant dated 8 July, 2019, the claimant has applied for reconsideration of the Tribunal's Judgment given following the hearing on 23, 24, 26 and 29 April, 2019.

2 Rule 71 of Employment Tribunal Rules of Procedure, 2013, provides that an application shall be made in writing. Although it might be possible for an Employment Judge to seek further particulars, there is a presumption in the Rules that any application should be complete and set out all matters relied upon so that the application can, if appropriate, be responded to by the other party and considered by the Employment Judge.

3 In an email dated 17, May, 2019, which was before the Tribunal's written reasons were promulgated, from the claimant to the Tribunal, copied to the respondent, the claimant indicated that she would be seeking a reconsideration of the Tribunal's judgment but that she would require additional time to prepare her reasons for the

application. In that email, the claimant alleged, amongst other things, that the Tribunal had not taken into account 'Good Practice for Justice Professionals' published by the British Dyslexia Association.

4 In her email of 8 July, 2019, the claimant confirmed that she was making an application for reconsideration and asked for three extra weeks to prepare her submission in support of the application. After a delay of several weeks, the claimant was granted an additional period of two weeks to make her submission, which actually provided more time in total, including the delay, than the claimant had requested.

5 The Tribunal is satisfied that the claimant has been allowed more time than is set out in the Rules and more time than she had requested to make a submission in support of her application but she has failed to submit her submission or to seek further time, which may or may not have been granted subject to the nature of the relevant application.

6 In these circumstances the application has been considered on the basis set out in the email of 8 July, 2019, that is that the Tribunal had

not followed the correct law and [the claimant feels] that the evidence used was incorrect and many facts were inaccurately recorded. As a whole the case was unfairly biased towards the other party.

In the absence of specific comments from the claimant, her application can only be considered in general terms.

7 In an email dated 17 May, 2019, the respondent stated

We note that the claimant is relying on the 'Good Practice Guide for Justice Professionals' in support of her application for extra time and not in any other respect. We pause to note that although the claimant says this material was 'not taken into account during [the] actual hearing', that was because the claimant did not refer to it either then or before. The Tribunal nevertheless did consider and make allowances for the claimant at the hearing, both as an unrepresented litigant and as a disabled person.

8 Whilst it might be expected that the respondent would support the Tribunal's decision in its favour, this comment was made voluntarily by the respondent and without any request for comment by the Tribunal.

9 As the claimant has failed to produce her submission, the application for reconsideration has been considered on the basis of the general comments in the email of 8 July, 2019.

10 Having reconsidered the case and the Reasons, the Employment Judge is satisfied that the Tribunal conducted proper and thorough deliberations at the conclusion of hearing the evidence and submissions. Further, that the Tribunal did correctly consider the evidence it heard and the documents that it saw and reached conclusions based on those facts that it was entitled to reach. Accordingly, the

Tribunal's findings of fact set out in the Reasons were findings that it was entitled reach. Further, the Employment Judge is satisfied that the Tribunal did consider the relevant legislation, case law and guidance and apply them to the facts of the case so that the decisions that it reached were ones that it was entitled to reach.

11 With regard to alleged bias, it is denied that the Tribunal demonstrated any bias in favour of the respondent. For example, as can be seen in the Reasons, the Tribunal found in favour of the claimant on the time issues. As a further example, the Tribunal allowed the claimant to introduce additional documents that had not been included in the bundle, including documents that the claimant said would assist her in handling her case. It is not proposed to identify all such matters in the absence of specific allegations from the claimant. Where the claimant was offered advice or guidance, the respondent, which was represented by Counsel, was always asked to confirm that the Tribunal was not misleading the claimant or giving incorrect advice, which it did. The Tribunal found in favour of the respondent on the issues of liability having balanced the matters and facts placed before it.

12 Throughout the hearing, the Tribunal took steps to try to ensure that the claimant was not unfairly disadvantaged because of her disability and the fact that she was a litigant in person. As recorded in the Reasons, the claimant claimed to have had legal training and experience but this did not influence the Tribunal in the way in which it treated her and it did not make any assumptions about her knowledge or experience. At various times, the Tribunal explained matters that the claimant did not appear to understand and, to the extent that it was able, gave advice on procedure. Additional adjournments were allowed as necessary and the claimant was able to benefit from breaks in the hearing on the days when the Tribunal did not sit. Had the claimant any complaints about the hearing and the way in which it was conducted, she could have raised them at the time or at an appropriate moment.

13 The claimant has failed to demonstrate that she has reasonable prospects of showing that she was entitled to a different decision in this case.

14 With regard to whether the interests of justice require a review, although the claimant is clearly disappointed with the Tribunal's Judgment and raises various issues, the Tribunal was concerned with whether, on the basis of the information and arguments placed before it, the parties had established their cases and had to apply the relevant legal principles. Having made its findings of fact, the Tribunal made the decisions set out in its Judgment in accordance with those principles. The claimant does not show that the interests of justice require the reconsideration of the Judgment or that there was any error on the part of the Tribunal.

15 Having regard to all of the circumstances, the claimant has not established that the interests of justice require that the Judgment needs to be reconsidered or that, if it was reconsidered, there is a reasonable prospect of the Judgment being varied or revoked.

16 Rule 72(1) as set out in the Employment Tribunals Rules of Procedure, 2013, states that the Employment Judge considering an application for reconsideration of a

Judgment shall refuse the application if he considers that there are no reasonable prospects of the original decision being varied or revoked.

17 It follows that the application for reconsideration of the Judgment is refused.

Employment Judge Nicol

Date 30 August, 2019

JUDGMENT SENT TO THE PARTIES ON

18 September 2019
FOR THE TRIBUNAL