



EMPLOYMENT TRIBUNALS

Claimant: Mrs A Kaluzna

Respondent: Bahadeen Omar Mohammed Kochar

JUDGMENT

The Claimant's application for the Judgment of 24 July 2019 to be reconsidered is refused.

REASONS

1. Under Rule 70(1) of the Tribunal's Rules of Procedure, a party may apply for the Tribunal to reconsider any Judgment on the ground that it is necessary in the interests of justice for the Tribunal to do so. On 25 October 2019, the Claimant applied for a reconsideration of the Judgment the Tribunal reached on 24 July 2019. Because the Claimant is unrepresented and was alerted to the possibility of applying for a reconsideration by the Employment Judge who heard another claim she made arising from the same employment (No. 1803022/2019) on 1 October 2019, the Tribunal has exercised its discretion to extend time for this application and consider it, even though it has been presented outside the 14-day time limit set down in Rule 71.
2. Under Rule 70(2) and (3), an Employment Judge (and, where practicable, the one who made the original decision) must consider the application. If she considers that there is no reasonable prospect of the original decision being varied or revoked, she must refuse the application.
3. The Claimant's application is effectively aimed at re-opening the claim so that additional Respondents can be added, on the basis that they may in fact have been her new employer. These were all individuals who were raised as potential Respondents in the Claimant's second claim.
4. The Claimant wants to add Mr Mohammed Kasim Sadqi to her claim, on the basis that he told her that he was her boss during the time when she was still employed. If the Claimant had wished to claim against Mr Sadqi, she had the opportunity to do so, either in her original claim or by applying to add or substitute him as the Respondent at the Hearing on 24 July 2019. She did not do so. The Tribunal does not consider that it would be in the interests of justice to reconsider the Judgment because a Respondent who could have been named by the Claimant was not.

5. The Claimant wants to add Mr Awat Abdul Karim Mohamed as a Respondent to the claim, on the basis that he is the person named as licensed to sell alcohol on the premises where she worked. It is not clear when and how the Claimant obtained this information. The evidence she has sent appears to be a photograph of the premises licence posted in the premises shop window. Even if she did not obtain this evidence until after the Judgment of 24 July was made, the Tribunal is not satisfied that she could not reasonably have been expected to obtain it before the Judgment was made. Again, the Tribunal does not consider that it would be in the interests of justice to reconsider the Judgment because a Respondent who could have been named by the Claimant was not.
6. Finally, the Claimant wants to add Mr Deeno Ali Ahmad to her claim. On 23 July 2019, in the context of the Claimant's second claim, the Claimant's former employer, Mrs Kuna of M&K Polish Goods Limited, emailed the Tribunal to say that Mr Ahmad was the new owner of the business. It appears that that email was not copied to the Claimant until 1 August 2019, at a Preliminary Hearing in the second claim. That was after the Judgment of 24 July was made.
7. Whilst the Tribunal accepts that Mr Ahmad may have been the Claimant's new employer and she did not know his name until the email was provided to her at the Preliminary Hearing on 1 August, the Tribunal does not consider that it would be in the interests of justice to reconsider the Judgment against Mr Kochar on that basis. The Claimant told the Tribunal in evidence at the Hearing on 24 July that Mrs Kuna had sent her an email to say that Mr Kochar was her new employer. The evidence to establish that Mr Ahmad was her new employer is therefore no stronger than the evidence that Mr Kochar was.
8. It is apparent from the Claimant's application that her aim in making it is in fact to enforce the Judgment, that is, to secure the payment of it. The Tribunal cannot add or substitute a new Respondent on the basis that he might be more likely to pay it. In any event, the Tribunal notes that although Mr Ahmad was served with the Claimant's second claim he did not respond to it. There is no reason to believe that, even if the Judgment was reconsidered and Mr Ahmad was substituted as the correct Respondent, he would be any more likely to pay it than Mr Kochar is.
9. In summary, the Tribunal can identify no basis on which it would be in the interests of justice to reconsider the Judgment of 24 July 2019. The Claimant's application is therefore refused.

Employment Judge Cox
Date: 30 October 2019