



EMPLOYMENT TRIBUNALS

Claimant: Mr M. Burkett
Respondent: L and RG Logistics Limited

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

The Respondent's application for a reconsideration of the Tribunal's Judgment sent to the parties on 26 September 2019 is refused.

REASONS

1. Rule 71 of the Employment Tribunal Rules 2013 provides:

'Except where it is made in the course of a hearing, an application for reconsideration shall be presented in writing (and copied to all the other parties) within 14 days of the date on which the written record, or other written communication, of the original decision was sent to the parties ... and shall set out why reconsideration of the original decision is necessary.'

2. The Tribunal's Judgment, pursuant to Rule 21, that the Respondent had made an unauthorised deduction from wages and ordering it to pay him the gross sum of £480, was sent to the parties on 26 September 2019.
3. The Judgment was accompanied by a covering letter explaining that the Respondent may ask the Employment Tribunal to reconsider a Judgment; and explaining the (separate) right to appeal to the Employment Appeal Tribunal. It emphasised that both involved strict time limits and that an application to the Tribunal for reconsideration must be made within 14 days of the date the decision was sent. The letter also contained a link to an online guide giving further information about the requirements of a reconsideration application in accordance with Rule 71.

4. The Judgment and letter were sent to the Respondent's registered address, according to Companies House (38 Cambridge Avenue, Romford, Essex, RM2 6QU).
5. The Respondent had already been put on notice that the Tribunal was considering entering default judgment in the Claimant's favour because of a previous Order sent to the parties on 20 August 2019, warning it of the fact. That Order was also copied to the Respondent's registered address. Even if it is right that it had not received earlier correspondence from the Tribunal, the Respondent took no action at that point to raise the matter with the Tribunal.
6. In this case, a reconsideration application had to be lodged on or before 10 October 2019. The earliest correspondence from the Respondent to the Tribunal after the Judgment was sent out was an email from R. Elliott of 3 October 2019, stating:

'Please see attached documentation relating to my appeal against the Judgment.'

There was no attachment to the email.

7. As the letter and booklet had explained, an appeal lies to the Employment Appeal Tribunal, not to the Employment Tribunal. The Tribunal replied on 4 October 2019 at 09:34 pointing this out and giving the address of the EAT. If the Respondent had wished to lodge an appeal to the EAT, it still had ample time to do so. Similarly, if it wished to lodge a reconsideration application to the Tribunal, it still had ample time to do so, but it did not. There was no further correspondence from the Respondent until 7 November 2019.
8. Even if I treat the email of 3 October 2019 as an application for reconsideration, it failed to comply with Rule 71 in two respects: it was not copied to the Claimant; and it did not set out why the reconsideration of the original decision was necessary. The Respondent's later email of 7 November 2019 does include a brief reason ('we had no knowledge of this as documentation from the claimant was sent to the wrong address'). However, that email was sent out of time for the purposes of a reconsideration application and was not copied to the Claimant. It was also defective.
9. In all the circumstances, the Respondent's application for a reconsideration of the Judgment is refused. No explanation has been provided by the Respondent as to why a valid application under Rule 71 was not made, within the applicable time limits or at all. There has been no application for an extension of time. Insofar as an application has been made, it did not comply with the requirements of Rule 71 (of which the Respondent would have been aware, had it consulted the guidance supplied) and it was defective.

Employment Judge Massarella

Date: 14 January 2020

