



EMPLOYMENT TRIBUNALS

Claimant: Mr J McHugh

Respondent: Erba Corporate Services Limited

RECONSIDERATION JUDGMENT

The claimant's application dated **10 October 2019** for reconsideration of the judgment sent to the parties on **7 August 2019** is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because: -

1. The application for reconsideration described as a 'letter of appeal' was treated, in accordance with the overriding objective in Rule 2((b) and (c), as an application for a reconsideration under Rule 70 of the Employment Tribunals Rules of Procedure 2013, as there is no appeal to the Employment Tribunal against its Judgments or Orders.
2. The application was submitted outside the 14-day time limit under Rule 71. Further, it was not supported by any evidence corroborating the Claimant's state of health in the time frame since the hearing on 22 May 2019 at which the Judgment was announced or indeed for the time frame from 7 August 2019 after the written reasons for the Judgment were sent to the parties as part of the case management summary, which could justify an extension of time for an application for reconsideration.
3. The Tribunal therefore did not consider it appropriate to reconsider the application as there was no proper ground for extending time.
4. In any event, without prejudice to the above, having reviewed the grounds for the application and the note of the reasons for the Judgment made on 22 May 2019 as set out in the case management summary sent to the parties also on 7 August 2019, it appeared to me that there were no reasonable prospects of the original decision being varied or revoked.

5. In relation to points made by the Claimant about either an inability or impaired ability to present his letter of appeal which had been treated by the Tribunal as an application for reconsideration, within the appropriate time frame under the Employment Tribunal Rules, the Tribunal notes that the Claimant provided a detailed document dated 7 June 2019 which was sent by email to the Tribunal following after the case management hearing, purporting to provide further details of his claim. That document ran to some five pages.
6. To the extent that the Claimant relies on the Tribunal having "...witnessed the impact of my PTSD during the pre-Tribunal hearing ...", the Tribunal is not competent to conduct any psychological or behavioural assessment of a party. The Judge's notes of the hearing record that a break was offered to the Claimant towards the end of proceedings while he was making his representations but that this was declined by the Claimant.
7. The Claimant also argues that the Tribunal rejected his claim of breach of contract for late submission but compares this with the Tribunal accepting documentation put forward by the Respondent which he says was submitted on the day of the pre-Tribunal hearing. The comparison is not apt. The time limits relating to the presentation to the claim affect the jurisdiction or power of the Tribunal to hear the case at all. Any issue about presenting documentation is a procedural matter.
8. It was further clear from the summary of the case management hearing that the Tribunal did not consider that the notice pay claim was presented in time and there were no grounds for extending time having regard to the stricter test in relation to such a claim, i.e., whether it was not reasonably practicable for the Claimant to have presented his claim within three months of the date of termination, and if so whether the claim had been presented within such further period as was reasonable. The Claimant did not pass the first limb of the threshold.
9. It further appears from the reasons in the case management summary that the Tribunal considered that Mr McHugh's position in relation to knowledge of the applicable time limit was not consistent.
10. The Tribunal has given an indication of its position in relation to the merits of the main points being raised by Mr McHugh in his application. However, for the avoidance of doubt, the Tribunal's substantive decision was that the application for reconsideration was brought out of time and there was no good reason for extending time under the Rules.
11. As it was, the application was sent to the Tribunal and not copied by the Claimant to the Respondent as far as the Tribunal could see. He indicated that he had been referred to a psychiatrist as of October 2019 and would "provide further evidence in due course". That necessarily means that any psychiatric evidence that the Claimant would provide would not cover the time frame of the delay.

12. The reasons for this Judgment are set out here only to the extent that the Tribunal considers it necessary to do so in order for the parties to understand the decision and further only to the extent that it is proportionate to do so.

Employment Judge Hyde

Dated: 10 January 2020