



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Respondent

AND

Mr S Robinson

Pendennis Shipyard Limited

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

ON 19 March 2020

EMPLOYMENT JUDGE A Goraj

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The Judgment of the Tribunal is that the Claimant's application for reconsideration is refused because there is no reasonable prospect of the Judgment sent to the parties on 18 February 2020 being varied or revoked.

REASONS

1. The Claimant has applied for a reconsideration of the reserved judgment with reasons dated 16 February 2020 determining the claimant's application for interim relief which was sent to the parties on 18 February 2020 ("the Interim Relief Judgment"). The grounds for the Claimant's application are set out in a document which was received by the Tribunal by email on 3 March 2020 ("the application"). The application has been copied to the respondent.

2. Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure (“the Rules”). Under Rule 71 an application for reconsideration under Rule 70 must be made within 14 days of the date on which the decision (or, if later, the written reasons) were sent to the parties. The reserved Interim Relief Judgment was sent to the Claimant on 18 February 2020 and the application was received by the Tribunal on 3 March 2020. The application was therefore received within the relevant time limit.

THE LAW AND THE CONCLUSIONS OF THE TRIBUNAL

THE LAW

3. The Tribunal has had regard in particular to: -
 - (a) Rules 70 -73 of the Rules referred to above including, that the grounds for reconsideration are limited to those set out in Rule 70, namely that it is necessary in the interests of justice to do so. The interests of justice apply to both parties.
 - (b) The Employment Judge is (a) required to consider as a preliminary matter pursuant to Rule 72 (1) of the Rules whether there is any reasonable prospect of the relevant decisions being varied or revoked and (b) if not so satisfied to dismiss the application at that stage.
 - (c) The guidance contained in **Trimble v Supertravel Ltd [1982] ICR 440 EAT**, including that if a matter has been ventilated and argued at a Tribunal hearing any error of law falls to be corrected on appeal and not by review.

THE CONCLUSIONS OF THE TRIBUNAL

4. Having given careful consideration to the matters raised in the application the Tribunal is satisfied that there is no reasonable prospect of the Judgment being varied or revoked for the reasons explained below.
5. The claimant states at paragraph 1 of the application that, “The primary reason” for the application is that “points of law in relation to an interim relief case were missed” including that a number of important pieces of case law relevant to interim relief/ the case were not considered and/or applied. The Tribunal set out at paragraphs 13 – 15 of the Interim Relief Judgment the legal authorities and principles which it had applied in determining the claimant’s application. In accordance with the guidance contained in

Trimble if a matter was ventilated and argued at the Tribunal, as was the case with the claimant's application as set out in the Interim Relief Judgment, any errors of law fall to be determined on appeal by the Employment Appeal Tribunal and not by way of reconsideration.

6. Further, the Tribunal is satisfied that the further matters upon which the Claimant is now seeking to rely including : - (a) the introduction of a further alleged protected public interest disclosure (PIDA 6 – at paragraph 3 onwards of the application) and (b) the further factual submissions (such as at paragraphs 35 and 53 onwards of the application) are matters which fall to be considered, if relevant, at the full merits hearing of the case, rather than as part of the summary assessment which the Tribunal was required to conduct for the purposes of the interim relief process in accordance with the provisions of section 128 of the Employment Rights Act 1996.

7. In all the circumstances the Employment Judge is, satisfied that there is no reasonable prospect of the Interim Relief Judgment being revoked or varied and the Claimant's application is therefore dismissed.

Employment Judge A Goraj
Dated 20 March 2020