



THE EMPLOYMENT TRIBUNALS

Claimant **Mr O Odukoya**

Respondent **Mr T Hopkins**

Employment Judge: **Mr J Tayler**

JUDGMENT

The Claimant's application dated 18 July 2019 for reconsideration of the Judgment sent to the parties on 3 July 2019 is refused.

REASONS

1. This case was heard by myself, Mr S Soskin and Mr PM Secher from 4-18 April 2019. A Judgement with reasons was sent to the parties on 3 July 2019. On 18 July 2019 the Claimant applied for reconsideration of our Judgment. Unfortunately, by administrative oversight, that application was not referred to me. In recent correspondence the Claimant referred to, and attached, the application for reconsideration. There has been some limited delay in my arranging to have the correspondence investigated as I have been working from home during the Coronavirus Pandemic.
2. The Claimant has provided a copy of his application for reconsideration date stamped as sent on 18 Jul 2019 at 00:00. A copy has been found in the London Central Employment Tribunal inbox date stamped as received on 18 July 2019 at 00:01.
3. The time limit in which an application for reconsideration can be made is set out in rule 71(3) Employment Tribunal Rules 2013 which 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 or within 14 days of the date that the written reasons were sent (if later) and shall set out why reconsideration of the original decision is necessary".
4. Time is calculated in accordance with rule 4 Employment Tribunal Rules 2013 which provides: "(3) Where any act is required to be, or may be, done within a certain number of days of or from an event, the date of that event shall not be

included in the calculation. (For example, a response shall be presented within 28 days of the date on which the respondent was sent a copy of the claim: if the claim was sent on 1st October the last day for presentation of the response is 29th October.)". Rule 4(1) provides that "Unless otherwise specified by the Tribunal, an act required by these Rules, a practice direction or an order of a Tribunal to be done on or by a particular day may be done at any time before midnight on that day".

5. The effect of these provision is that the application for reconsideration was submitted out of time, albeit by only one or two seconds whether looking at the timing stamped as sent by the Claimant or, correctly, the time received by the Employment Tribunal.
6. There is power to extend time provided in rule 5 Employment Tribunal Rules 2013 "The Tribunal may, on its own initiative or on the application of a party, extend or shorten any time limit specified in these Rules or in any decision, whether or not (in the case of an extension) it has expired."
7. The discretion to extend time is to be exercised judicially. There needs to be a reason to extend time. The Claimant has not given a reason why the application for reconsideration was not made in time. While I appreciate that the Claimant may feel determining that his application for reconsideration was out of time by two seconds is rather rich considering the delay there has been in dealing with the application, that delay result from administrative error that should no rob the Respondent of their right to have the time issue determined. In the absence of any explanation for the delay, I do not consider that it would be just to extend time to allow the application for reconsideration to be pursued.
8. In any event, even if I had considered that time should be extended, I would have dismissed the application for reconsideration pursuant to rule 72 Employment Tribunal Rules 2013 on the basis that there is no reasonable prospect of the original decision being varied or revoked.
9. The determination for our tribunal was very limited in scope as a result of the decisions made in the course of the very lengthy procedural history that we set out in our Judgment and Reasons, that should be read together with this. The Claimant is not seeking to criticise the decision that we made, but again is trying to reopen his criticisms of other Judges and the decision that they made that resulted in the limitation of his claim. We explained at our hearing that it is not for us to reopen those decisions.
10. More in hope than expectation, we concluded our reasons by stating: "While we appreciate the great disappointment this will cause to the Claimant, we conclude that this claim fails and that it was a claim that was totally without merit. We suggest that the Claimant tries to take some time to consider carefully whether the time has come for this litigation to reach its conclusion."

11. Similarly, had the application been submitted in time, it would not only have failed because there would be no reasonable prospect of the original decision being varied or revoked, it is also totally without merit.

Employment Judge Tayler

12 May 2020

Judgment and Reasons sent to the parties on:

13/5/2020.....

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For the Tribunal Office