



EMPLOYMENT TRIBUNALS

Claimant
Ms I Cetin

AND

Respondent
1. Steve Griffiths
2 Melanie Griffiths, also known
as Melanie Mareuge Lejeune

JUDGMENT

The respondent's application dated **1 November 2019** for reconsideration of the judgment sent to the parties on **18 October 2019** is refused.

REASONS

1 On 1 November 2019, the Respondents made a request for reconsideration in respect of the Reserved Judgement on Costs sent to the parties on 18 October 2019.

2 The Tribunal did not draw my attention to that request until a few days ago. I am not sure of the reason for that, except to say there have been technical system problems for some time and more recently the coronavirus situation, but nevertheless, I apologise for the delay in addressing this request.

3 I consider there is no reasonable prospect of the original Judgment being varied or revoked and therefore the application is refused.

4 There are three elements to the Respondents' Request for Reconsideration. First, there is an application for reconsideration of the costs award made against the Respondents. Second there is an application for reconsideration of the failure to award costs sought by the Respondents against the Claimant. Thirdly there appear to be some general and non-specific points.

Background

5 Both parties applied for costs. I refer to the Claimant's application for a preparation time order as an application for costs as it falls under the same set of rules. Initially the Claimant applied for costs. The Respondents responded indicating that if the Claimant sought costs, they would too. The Claimant's application was deficient and the Respondents' application was conditional.

After various letters from both parties on costs, I required both parties to make written submissions and provide costs schedules if they wished to make costs applications, which they did. The costs applications were too complex to be addressed on paper and a hearing was fixed for 8 August 2019. All parties were therefore aware of the substance of the arguments to be made by the other side, by the time of the Costs Hearing.

6 The only award made after consideration of all the arguments was a preparation time order in favour of the Claimant for 13 hours preparation time.

Request for reconsideration of the Award against the Respondents.

7 This arose out of the Claimant's assertion that the Second Respondent sought references from former employers after the Claimant's employment had ended in order to obtain information, which was used as part of the proceedings. As noted in the judgment, this was not disputed at the hearing by the Respondents' representatives. The facts that the Respondents now seek to put forward to explain the position were facts that were clearly known to them at the time. As noted, there had been various letters and written submissions so both parties were aware of the nature of the arguments to be made by the other side. The matter was discussed fully and I tested the Respondents' representatives' argument. Ultimately the judgment sets out the conclusions reached. It is not in the interests of justice as the Respondents are seeking to reopen the matter to allow evidence to be submitted about the background to the reference information, which could have been given at the time.

Request for reconsideration of refusal of Respondents' application for costs.

8 The second aspect of the reconsideration request is that the Respondents are arguing that their application for costs should have been granted, at least on some points. They point out various irrelevant allegations made by the Claimant, which were ignored. This matter was identified in costs judgement in the summary of the Respondents' assertions at 3.4. The argument made by the Respondents was summarised as the Claimant making various allegations against the Respondents, which were both unpleasant, irrelevant and additionally unfounded. In submissions the Respondents argued that the Claimant had sent numerous lengthy emails containing abusive and inappropriate comments about the Respondents that bore no relation to her tax demand or unlawful deduction arguments. In paragraph 78 of the Costs judgment I set out at some length the options open to the Respondent and while I acknowledged that the Claimant addressed her wider concerns about her employment, rather than focussing on the issues which the Tribunal had to consider, I regarded it as difficult for a litigant in person. I also noted that both parties' emotions were at a high level throughout and all parties were highly critical of the other side. This matter was fully considered and it is not in the interests of justice to reconsider it as there is no reasonable prospect of the judgement being varied or revoked.

9 A second point is that the Schedule of Loss, which I believe is a reference to the Schedule of Costs, was not challenged during the hearing. The Respondents' representative had the opportunity to make all representations they sought. The Schedule of Costs was not accepted without question. Rather, I only awarded a limited number of hours that I considered genuinely reflected the time that would have been spent on the references. A preparation time order is made based on the number of hours assessed by the Judge. The total is then calculated at a fixed hourly rate set by a statutory instrument. There was no element of penalty. The hours awarded were significantly less than argued for by the Claimant. Again, there is no reasonable prospect of the judgement being varied or revoked.

10 A third point is that the judgment referred to the Respondents as a professional couple. The Second Respondent argues this is not a proper description of her status. The reference was included for one reason only, which was that the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013 envisage the paying party being given an opportunity to explain their financial position so that their ability to pay can be taken into account. The Respondents representative said there was no need to do this, because they had the means to pay, and I considered it necessary to record the explanation for not taking evidence from the Respondents about their means. There is no dispute that the First Respondent is a professional man and the judgment refers to them as a professional couple. The paragraph simply addresses the reason for not exploring the Respondents' means.

Non-Specific complaints

11 The Respondents complain that the Costs Judgment makes no reference to the "Lost Letter". This was not relevant to the Costs Application. The Tribunal have explained that the Claimant submitted a written application at the outset of the first hearing, which addressed liability. This was done in full view of the Respondents and their representatives. The Claimant was told that if she wanted to pursue what, on a brief glance, appeared to be a lengthy application it would be necessary to postpone the substantive application. She chose to withdraw it. Thereafter the hearing progressed to deal with the claim. The "Lost Letter" is a reference to the Claimant's withdrawn application. It was not requested by the Respondents representative during that hearing. It was not offered to them as it became wholly irrelevant. It was not placed on the file as it was not considered and had been withdrawn. When later questions were raised by the Respondents themselves in writing with the Tribunal, it was located by the Judge with the bundle and the Respondents representatives were given time to take instructions in order that they could make representations prior to the Judgment being given, in order to ensure all necessary matters were considered. The Respondents' representatives could not get through to their clients and after a relatively lengthy period, they confirmed that as legal representatives they had no issue at all with what had been done.

12 This was not referred to in the Costs Judgement as it was not relevant to the costs application. The "Lost Letter" was not read by the Judge beyond

ascertaining what it was and it did not result in the Respondents incurring any costs at the hearing.

Additional Information in email of 3 March 2020

13 The Respondents sent a follow up email on 3 March 2020, enquiring about the progress of the Reconsideration Request. That email also seeks to make new submissions arising from what is described as newly published information. The email sets out details of the current position and developments which are background to their new submissions. The Respondents then submit that the Judgment erred on a point of law. The Judgment in question appears to be the original Judgment on liability, which the Respondents now say did not address the question of illegality.

14 The Respondents now say the references were there to show that the employment had been entered into on the basis of misrepresentations. This argument was not made by the Respondents' representatives, nor was it made in various Requests for Reconsideration made after that Judgment. Their focus was to say that there was a legal exception to the requirement to pay minimum wage, for friends and family, which applied to the Claimant and thus she could not claim minimum wage. The Tribunal had to determine whether that exception was applicable. It is not in the interests of justice to open the matter to an entirely new argument at this very late stage. To the extent that this was a Request for Reconsideration of the initial Liability Judgment, that Request for Reconsideration is out of time and is in any event refused.

15 To the extent that the matter is included in order to argue that it was not unreasonable for the Respondents to have sought the information and to explain why it was in the bundle, and thus to argue that the costs awarded in relation to the references should be reconsidered, it is not necessary to consider it as it is out of time.

16 However, I have considered it as an expansion of the Reconsideration Request already made. It is clear that the majority of the details were known to the Respondents prior to the Costs hearing. As set out above, there was opportunity to address the matter on the basis of the facts known to the Respondents at the Costs hearing on 8 August 2019. Most of the information set out is not new. In the circumstances, I see no reason to vary the conclusion reached and detailed above, which is to refuse the Reconsideration Request.

Employment Judge Walker

16 June 2020

JUDGMENT SENT TO THE PARTIES ON

18 June 2020

FOR THE TRIBUNAL OFFICE