



EMPLOYMENT TRIBUNALS

Claimant: Ms D Green

Respondent: CBRE Managed Services Ltd

Dated: 27 August 2020

By: EJ Henderson

Upon application made by the claimant by letter dated 9 August 2020 to reconsider the judgment dated 28 July 2020 under rule 71 of the Employment Tribunal Rules of Procedure 2013

JUDGMENT

The claimant's request for reconsideration is refused.

REASONS

Background

1. The claimant made on 9 August 2020 a request for reconsideration of the Tribunal's judgment promulgated on 28 July 2020, following an Open Preliminary Hearing (OPH) before me, EJ Henderson, on 22 July 2020 conducted using the cloud video platform (CVP). The Tribunal's decision was that the claims lodged by the claimant on 10 March 2020 for detriment and automatically unfair dismissal were out of time and that the Tribunal had no jurisdiction to hear those claims.
2. The claimant confirmed to the Tribunal that she had copied the respondent's solicitors when making her reconsideration application. A check with the Tribunal Administration made on 27 August 2020 confirmed that there had been no response from the respondent with regard to the claimant's reconsideration application.
3. As the claimant's application opened with allegations against me of "unfair bias" in favour of the respondent, I initially referred the reconsideration

request to REJ Wade at London Central Employment Tribunal on 10 August 2020, as it may not be appropriate for me to deal with the claimant's application.

4. REJ Wade asked me (on the same day) to deal with the reconsideration application on the specific grounds cited by the claimant and then to notify the claimant that she was at liberty to write to REJ Wade if she wished to pursue any allegations relating to my conduct which would be dealt with as a separate complaint.

The Request for Reconsideration

5. The claimant noted at the end of her reconsideration request (of 7 pages) that she was a Litigant in Person, but acknowledged that, at both hearings before me, the claimant was represented by counsel. The first was a Case Management Hearing on 8 July, when the claimant was represented by Mr Gary Self; the second was the OPH on 22 July when the claimant was represented by Mr Ezra McDonald.
6. I shall deal with the claimant's request under Rules 70-72 of the Employment Tribunal Rules of Procedure 2013 relating to reconsideration of judgements. Rule 70 allows a Tribunal to "*reconsider any judgement where it is necessary in the interests of justice to do so*". Rule 71 deals with the application process: the claimant made her request for reconsideration within the 14 day time limit and confirmed that she had sent that request to the respondent. Therefore, Rule 71 has been properly complied with.
7. Rule 72 states "*if the Judge considers that there is no reasonable prospect of the original decision being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application shall be refused and the Tribunal shall inform the parties of the refusal. Otherwise, the Tribunal shall send a notice to the parties setting a time limit for any response to the application by the other parties and seeking the views of the parties on whether the application can be determined without a hearing.*"
8. The claimant's letter dated 9 August 2020 contains several elements: a) complaints and allegations relating to the conduct of the hearing on 22 July 2020; b) the request for reconsideration itself and c) comment and lengthy submissions on the substantive merits of the claimant's case as regards her claims for detriment and automatically unfair dismissal on grounds of protected disclosure – (headed "Precis in relation the 3rd Party SOSR Action that led to my dismissal from CBRE")
9. **I shall deal with the matters relating to a) and b) above, but not those matters relating to c), which are not relevant to the reconsideration application.**
10. The claimant objects to the findings that the additional detriments (which she sought to introduce for the first time, at the OPH on 22 July) were not included as continuing acts under section 48 (3) of the Employment Rights Act 1996 (ERA) in the application to extend time for submitting her ET claims. She says that she had the right to introduce new evidence.
11. In fact, I allowed her to introduce the evidence of her alleged additional detriments (contrary to the submissions made by the respondent's counsel, Ms Jennings). However, having allowed the claimant to introduce

- that evidence I did not find in her favour. The claimant appears to have conflated different points with regard to the evidence on this matter.
12. The claimant objects to the fact that I allowed Ms Jennings to submit new evidence at the OPH relating to extracts from the CAB website, saying that this decision displayed bias in favour of the respondent. However, the claimant has failed to recall that I allowed this evidence with the agreement of her counsel at the OPH.
 13. The claimant objects to comments made in the Reasons for the decision, referring to the legal advice and assistance which she received. These comments are based on the information given to me by the claimant and/or her counsel at the two hearings. There is no rationale given as to why these comments, even if incorrect, should result in the decision being revoked.
 14. It is clear from the content of the claimant's request for reconsideration that she disagrees with the findings of fact and the conclusions of my Judgment of 28 July 2020. I understand that the claimant is disappointed with the outcome. However, there is nothing in the request with regard to the content of the judgement that leads me to conclude that there is any reasonable prospect of the original decision being revoked, or that it would be in the interests of justice to do so. It is of course open to the claimant to appeal the Judgment of 28 July if she feels this is appropriate.

Allegations of Bias and Misconduct

15. As mentioned above I refer to the various allegations made in the claimant's letter of 9 August, relating to "unfair bias" and irregular conduct. REJ Wade has indicated that the claimant should write to her if she wishes to pursue these as complaints. However, it may be helpful if I address some of those allegations at this stage.
16. The claimant raises various procedural points concerning my communication with the parties by use of a UK Skype Court email address. This is unusual under normal circumstances, but was a recognised practice adopted by the London Central Employment Tribunal during the period when the Tribunal was closed due to the Covid 19 restrictions.
17. The claimant also complains that I provisionally agreed a date for a further Case Management Hearing on 5 August 2020. I explained at the OPH that this was in the event that I found in the claimant's favour and we needed to discuss directions as to how her claim would proceed. I recall clearly explaining that I was taking this course of action because I had not reached any decision at the end of the OPH on 22 July, but needed to consider carefully the evidence presented to me at that hearing. This was not an indication of bias, but indeed of keeping an open mind, and if anything, could indicate a bias in the claimant's favour. I would have expected Mr McDonald to explain this to the claimant if she was unclear as to why this had been done. Ms Jennings did comment that she would be on holiday on 5 August 2020 but had said that she would be able to attend a case management hearing if necessary. The case management hearing was not in fact needed as a result of the decision.

Employment Judge Henderson

Date 27 August 2020

JUDGMENT SENT TO THE PARTIES ON

28/08/2020.

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