



EMPLOYMENT TRIBUNALS

Claimant: John Sartain
Respondent: Fiesta Flowers and Gifts Limited
Before: Employment Judge Mr. M. Salter

RECONSIDERATION JUDGMENT

- (1) The Claimant is entitled to a redundancy payment in the sum of £6,403.85.
- (2) It was reasonably practicable for the Claimant to have presented his claims for notice pay and for accrued but untaken holiday pay within the relevant time limits for such claims, the tribunal therefore has no jurisdiction to hear such claims and they are dismissed.

REASONS

Introduction

1. By Rule 70 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 the Employment Tribunal may, either on its own initiative or on the application of a party, reconsider a Judgment where it is necessary in the interests of justice to do so. On reconsideration, the Judgment may be confirmed, varied or revoked.
2. Under Rule 70, a Judgment will only be reconsidered where it is necessary in the interests of justice to do so. This allows an Employment Tribunal a broad discretion to determine whether reconsideration of a Judgment is appropriate in the circumstances. The discretion must be exercised judicially. This means having regard not only to the interests of the party seeking the reconsideration but also the interests of the other party to the

litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.

The Hearing

3. By a claim form presented to the tribunal on 23rd January 2020 the Claimant brought claims seeking a redundancy payment, notice pay and for unpaid holiday from his previous employers Fiesta Flowers.
4. The matter was listed for Preliminary hearing to determine whether those claims had been presented in time. The Claimant's employment having ended on 31st May 2019 and ACAS conciliation taking place between 16th and 20th January 2020.
5. This matter came before me on 28th August 2020. At that hearing the Claimant gave evidence and I issued a judgment on 2nd September 2020 on those matters I could determine, namely the entitlement of the Claimant to a redundancy payment. I repeat those findings of fact I set out in my judgment of 28th August 2020 here.
6. On those matters I could not determine I ordered the claimant provide further particulars including the details of the form of insolvency the Respondent had been placed into and the details of the application the claimant told me he had made to the Secretary of State.
7. By way of email dated 10th September 2020 the Claimant sought to answer those particulars. It transpired the Respondent had not, in fact, been placed into any form of insolvency and that no application to the Secretary of State had been made.
8. It, therefore appeared to me to be in the interests of justice that I reconsider the judgment as far as it related to the claims of notice pay and holiday and re-determine the issue of whether the claims for unpaid wages and holiday pay have been presented within the relevant time limits.
9. In accordance with rule 72(1) I sought the Claimant's views as to whether the reconsideration could be conducted without a hearing. The Claimant replied by email.

10. Taking into account the matters raised in the Claimant's email, the overriding objective to deal with matters proportionately, and the evidence I heard on 28th August 2020 I am satisfied that I can reconsider my judgment without the need for a further hearing.
11. I consider that my judgment of 2nd September 2020 should be varied.
12. On the basis of what I heard in evidence on 28th August 2020, I consider that it was reasonably practicable for the claimant to have presented his claims for Notice Pay and for accrued but untaken holiday entitlement to the tribunal within the relevant time limit for such claims, namely three-months less one day from the date his employment ended. Therefore, I consider the tribunal does not have jurisdiction to hear those claims.
13. For the avoidance of doubt this reconsideration does not affect my determination of the Claimant's entitlement to a redundancy payment.

Employment Judge Salter

Date : 28 October 2020

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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