



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant
Mr R Kumar

AND

Respondent
MES Environmental Ltd

JUDGMENT ON A RECUSAL APPLICATION

EMPLOYMENT JUDGE Hughes

MEMBERS Mrs R.A. Forrest
Mr R. Moss

JUDGMENT

The claimant's application for this Employment Tribunal to recuse itself from hearing the respondent's costs application is refused because there are no valid grounds for the Employment Tribunal to do so.

REASONS

1 On 24 to 27 February 2020, an Employment Tribunal comprised of Employment Judge Hughes, Mrs Forrest, and Mr Moss heard the claimant's case. We did not find for him. On 27 February 2020 we handed down judgment with oral reasons. The claimant did not attend on 27 February 2020 due to ill-health and his barrister requested written reasons which were sent to him on 21 May 2020. The Employment Tribunal was to reconvene to hear the respondent's application for costs on 5 June 2020 but this was not possible because of the Covid-19 pandemic. The administrative staff have been attempting to re-list that hearing.

2 The claimant submitted a County Court form requesting a transcript. Employment Judge Hughes directed that a letter be sent to him explaining that there is no legal mechanism by which an application for a transcript of Employment Tribunal proceedings can be made. The Judge referred him to Schedule 1 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013 ("The Rules") which contain no such provision. In the letter the Judge caused to be sent, the claimant was informed that he is entitled (under the Rules), to request written reasons in order to appeal, and that he had in fact received them. The

claimant applied for a reconsideration of the refusal of a transcript. The Judge refused this on the grounds that there was no reasonable prospect of that decision being varied or revoked because there is no legal right to a transcript of Employment Tribunal proceedings.

3 After making that reconsideration application, the claimant made a further reconsideration application in respect of the Employment Tribunal's decision to dismiss his claim as being not well-founded. The application was lengthy but did nothing more than seek to challenge the Employment Tribunal's findings of fact and/or argue perversity. That application was refused because there was no reasonable prospect of the judgment being varied or revoked. The reasons were: the Employment Tribunal's findings of fact and reasoned conclusions speak for themselves; the claimant had a fair hearing; he was professionally represented; and, should he wish to challenge our decision, he must appeal to the Employment Appeal Tribunal.

4 The claimant then appealed our decision to the Employment Appeal Tribunal. he also appealed the Judge's decision about the transcript. Those appeals are ongoing and have been consolidated. The fact that there is an ongoing appeal is no bar to the costs hearing proceedings.

5 On 18 August 2020, the claimant applied for this Tribunal to recuse itself from hearing the costs application. The application is lengthy and mostly seeks to challenge the Employment Tribunal's findings of fact and/or argue perversity. As noted above, our findings of fact and conclusions speak for themselves. In addition, the claimant contends there was actual, perceived, or subconscious bias. We reject that proposition. We do not accept that a fair minded and informed observer, having considered the given facts, would conclude that there was a real possibility that this Employment Tribunal was biased. It should also be noted that when the respondent's representative raised the costs application, following our reasons being handed down, the claimant's representative did not make any objection to the hearing being listed before us.

6 Consequently, the recusal application is refused. A costs hearing by CVP before this Employment Tribunal will now be listed with a time estimate of one day.

**Signed by Employment Judge Hughes
17 December 2020**