



EMPLOYMENT TRIBUNALS

Claimant: D Khadka

Respondent: Saiham & Soikat Trading Ltd

Heard at: Exeter **On:** 14 December 2020

Before: Employment Judge Housego

Representation

Claimant: None

Respondent: Paper application

JUDGMENT ON RECONSIDERATION

The judgment of the Tribunal is that the Respondent's application for reconsideration is refused because there is no reasonable prospect of the decision being varied or revoked.

REASONS

1. The Respondent applied for a Reconsideration of the Judgment of 09 October 2019 by email dated 11 November 2020. That email stated that the Claimant had manufactured evidence by manipulating a text message, altering its date from 14 December 2018 to 24 January 2019. No evidence of this allegation was provided. No text message of either date features in the judgment.
2. The application states that the reason the application is made is that trade is bad by reason of Covid 19 restrictions. That is not relevant to liability.

3. The application also states that Enamul Kabir is a manager not a director of the Respondent, and that is also a reason why reconsideration is sought. He attended to represent the Respondent, and whatever his status within the Respondent may be that is no reason to reconsider the Judgment.
4. The relevant procedural rules are in Schedule 1 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013. Those relevant Rules are as follows:

RECONSIDERATION OF JUDGMENTS

Principles

70. A Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration, the decision (“the original decision”) may be confirmed, varied or revoked. If it is revoked it may be taken again.

Application

71. 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.

Process

72.—(1) An Employment Judge shall consider any application made under rule 71. 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. The notice may set out the Judge’s provisional views on the application.

(2) If the application has not been refused under paragraph (1), the original decision shall be reconsidered at a hearing unless the Employment Judge considers, having regard to any response to the notice provided under paragraph (1), that a hearing is not necessary in the interests of justice. If the reconsideration proceeds without a hearing the parties shall be given a reasonable opportunity to make further written representations.

(3) Where practicable, the consideration under paragraph (1) shall be by the Employment Judge who made the original decision or, as the case may be, chaired the full tribunal which made it; and any reconsideration under paragraph (2) shall be made by the Judge or, as the case may be, the full tribunal which made the original decision. Where that is not practicable, the President, Vice President or a Regional Employment Judge shall appoint another Employment Judge to deal with the application or, in the case of a decision of a full tribunal, shall either direct that the reconsideration be by such members of the original Tribunal as remain available or reconstitute the Tribunal in whole or in part.

Reconsideration by the Tribunal on its own initiative

73. Where the Tribunal proposes to reconsider a decision on its own initiative, it shall inform the parties of the reasons why the decision is being reconsidered and the decision shall be reconsidered in accordance with rule 72(2) (as if an application had been made and not refused).

5. The application was made promptly. The Claimant has not made any observations on it: but it appears that the Respondent did not send a copy of the application to him. It was not properly constituted.
6. The application has no merit. Accordingly I decline to reconsider the judgment, as the application is no more than a wish to avoid payment.

Employment Judge Housego
Dated: 14 December 2020

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