



EMPLOYMENT TRIBUNALS

Claimant: Ms F Codreanu-Martin

Respondent Grand at Grasmere Limited

JUDGMENT ON A RECONSIDERATION

The Judgment dismissing the claimant's complaint of unfair dismissal dated 2 July 2020, sent to the parties on 3 July 2020, is revoked. The claimant's complaint of unfair dismissal is restored and shall proceed together with her other claims.

REASONS

1. On 2 July 2020, the Tribunal of its own initiative struck out the unfair dismissal complaint pursuant to section 108 of the Employment Rights Act 1996 ("ERA") because the claimant does not have the necessary qualifying service to bring an ordinary unfair dismissal claim. I was the Employment Judge who signed that Judgment.
2. On 17 November 2020, at a case management preliminary hearing conducted by Employment Judge Doyle, the parties discussed the complaints which had been presented to the Employment Tribunal. From that discussion, it was apparent to Employment Judge Doyle that the claimant in fact sought to pursue an unfair dismissal claim within section 99 ERA. Such a claim does not require a claimant to have 2 years' qualifying service. An issue therefore arose as to whether the Judgment which struck out the unfair dismissal complaint should be reconsidered.

3. The issue has been brought to my attention as the Judge who signed the Judgment which struck out the unfair dismissal complaint. I understand the reference to this issue at the case management preliminary hearing resulted in an application by the claimant for reconsideration of my Judgment, made orally at the case management preliminary hearing.
4. On 10 December 2020, in accordance with Rule 72(2), the Tribunal wrote to the parties to tell them that I considered that a reconsideration hearing was not necessary in light of the discussion at the case management preliminary hearing. The Tribunal also invited the parties to make any further representations in writing on the claimant's application for reconsideration. The deadline for such further representations has now expired and neither party has submitted any further representations to the Tribunal.

Rules of Procedure

5. Rule 70 of the 2013 Rules of Procedure empowers the Tribunal, on its own initiative or on the application of a party, to reconsider any Judgment. An application for reconsideration can be made orally in the course of a hearing. In addition, Rule 73 provides for reconsideration by the Tribunal on its own initiative subject to the procedure in Rule 72(2).
6. Rule 72(2) provides that, unless a reconsideration is refused under Rule 72(1), the original decision shall be reconsidered at a hearing unless the Employment Judge considers, having regard to any written response and the views of the parties, that a hearing is not necessary in the interests of justice.
7. The test is whether it is necessary in the interests of justice to reconsider the Judgment. Broadly, it is not in the interests of justice to allow a party to reopen matters heard and decided, unless there are special circumstances which could have a material bearing on the outcome.

Conclusion

8. I have read and taken account of the record of the case management preliminary hearing of 17 November 2020. In particular, I note that when this issue was raised at the case management preliminary hearing, the respondent did not seek to persuade the Tribunal that the strike-out Judgment should not be reconsidered.
9. Having considered the issue raised at the case management preliminary hearing on 17 November 2020, and in the absence of further representations by the parties to the contrary, I am satisfied that there are

special circumstances which require me to revoke the Judgment dated 2 July 2020 which was sent to the parties on 3 July 2020. It is in the interests of justice that the claimant's complaint of unfair dismissal shall be restored.

Employment Judge Batten
Date: 4 January 2021

JUDGMENT SENT TO THE PARTIES ON:

18 January 2021

FOR THE TRIBUNAL OFFICE