



EMPLOYMENT TRIBUNALS

Claimant: Miss J Palmer

Second Respondent: Opusclean Limited

Third Respondent: Bettaclean UK Limited

JUDGMENT ON A RECONSIDERATION APPLICATION

The Third Respondent's application dated 10 February 2021 for reconsideration of the Judgment sent to the parties on 13 January 2021 is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because:

1. I have considered the Third Respondent's application for reconsideration of the Judgment. The application was emailed by the Third Respondent and received by the Tribunal on 10 February 2021. It consists of one paragraph. The application was not copied to all other parties as required by rule 71.

Rules of Procedure

2. Rule 72(1) of the 2013 Rules of Procedure empowers me to refuse the application without convening a reconsideration hearing if I consider there is no reasonable prospect of the original decision being varied or revoked.
3. The test is whether it is necessary in the interests of justice to reconsider the Judgment (rule 70). Broadly, it is not in the interests of justice to allow a party to reopen matters heard and decided, unless there are special circumstances, such as a procedural mishap depriving a party of a chance to put their case or where new evidence comes to light that could not

reasonably have been brought to the original hearing and which could have a material bearing on the outcome.

The application

4. The Third Respondent was served with notice of the hearing on the 13 January 2021 but did not attend. The Director of the Third Respondent, Mr Webb asserts in the application for reconsideration that he was not able to attend the tribunal hearing due to work commitments, he does not expand further on those commitments however, it is not alleged that the Third Respondent informed the tribunal prior to the hearing or applied for an adjournment. The Third Respondent in its one paragraph application in essence asserts that there was no transfer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 1996 (TUPE). The Third Respondent has not attached any new evidence to its application.
5. There is no reasonable prospect of the Third Respondent establishing that the Tribunal made an error of law, or that any of the conclusions on the facts were perverse.
6. The issue of whether there was a TUPE transfer due to a service provision change, to the Third Respondent (and its liabilities arising as a consequence) was considered by the Tribunal in the course of the hearing and in its deliberations. It is not in the interests of justice to reopen such matters once decided.
7. I am satisfied that the Tribunal considered the issue of whether there was a TUPE transfer to the Third Respondent.

Conclusion

8. Having considered all the points made by the Third Respondent I am satisfied that there is no reasonable prospect of the original decision being varied or revoked. The application for reconsideration is refused.

Employment Judge Broughton

Date: 10 March 2021

JUDGMENT SENT TO THE PARTIES ON:

FOR THE TRIBUNAL OFFICE