



EMPLOYMENT TRIBUNALS

Appellant:
Ms A Pye

v

Respondent:
East Hampshire District Council

JUDGMENT ON RECONSIDERATION

The claimant's application of 13 January 2021 for reconsideration of the judgment sent to the parties on 7 January 2021 is refused.

REASONS

1. A prohibition notice under section 22 of the Health and Safety at Work Act 1974 was served on Ms Pye on 23 May 2019. She appealed against the notice on 5 December 2019. In a reserved judgment sent to the parties on 7 January 2021 the tribunal found that her appeal could not proceed as it had been presented outside the time limit, and it was reasonably practicable for it to have been presented in time.
2. On 13 June 2020 Ms Pye sent an email to the tribunal with a letter asking for the judgment to be reconsidered. The application was copied to the respondent but the respondent made no comments on the application.
3. I considered the application under rules 70 to 72 of the Employment Tribunal Rules of Procedure 2013. Rule 70 provides that a judgment may be reconsidered where it is necessary in the interests of justice to do so. On reconsideration the original decision may be confirmed, varied or revoked. Rule 72 says:

“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..., the application shall be refused and the tribunal shall inform the parties of the refusal.”

4. In her application Ms Pye says that the validity of the prohibition notice should have been considered before the time point, because if the prohibition notice was not valid then the time frame would not apply. She also draws attention to the fact that in employee/employer disputes, the time limit is 3 months, whereas in appeals against prohibition notices the time

limit is 21 days. Ms Pye also refers to *HM Inspector of Health and Safety v Chevron North Sea Limited* [2018] UKSC 7.

5. I have considered Ms Pye's application. The tribunal has already considered the question of whether the validity of the prohibition notice should be considered first as a preliminary issue, or whether the time point should be considered first. We concluded, for the reasons set out in our reserved judgment, that the time point should be considered first.
6. The time limit in employee/employer cases is not relevant to the question of whether the appeal against a prohibition notice was presented in time.
7. The issue before the Supreme Court in *HM Inspector of Health and Safety v Chevron North Sea Limited* was whether a tribunal is confined to the material which was, or could reasonably have been, known to the inspector at the time the notice was served or whether it can take into account additional evidence which has since become available. The Supreme Court held that the tribunal is not limited to considering the matter on the basis of the material which was or should have been available to the inspector. This was not a point which was an issue in this appeal.
8. I have concluded that the interests of justice do not require a reconsideration of the judgment and there is no reasonable prospect of the original decision being varied or revoked. The claimant's application for reconsideration is therefore refused under rule 72(1).

Employment Judge Hawksworth

Date: 1 March 2021

Judgment and Reasons

22/03/2021

Sent to the parties on:

J Moossavi

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For the Tribunal Office

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