



EMPLOYMENT TRIBUNALS

Claimant: Ms Gemma Mortland
Respondent: Islanders Vets
Tribunal: Employment Judge Rahman
London South Employment Tribunal

JUDGMENT ON RECONSIDERATION

The judgment of the Tribunal is that the application for reconsideration of the orders made on 3 December 2020 is refused.

REASONS

1. This is an application by the respondent for reconsideration of the judgment (including written reasons) sent to the parties on 29 January 2021. The application was first made by email on 30 January 2021.
2. The respondent seeks reconsideration of the Tribunal's decision in respect of the '*wrongful dismissal / notice period*' issue.
3. The history of the case is this.
4. The final hearing took place on 3 December 2020. The Tribunal allowed the claimant's claims for unauthorised deductions, notice pay and holiday pay. For a full history of the case recourse must be had to the Tribunal's earlier judgment and reasons.
5. Reasons were requested by the respondent on 9 December 2020. These were sent out to the parties on 29 January 2021 by the Tribunal – regrettably there was a delay in the Tribunal office sending these out; most probably due to remote working and shift patterns owing to the pandemic and lock-down. On 30 January 2021 the respondent requested a reconsideration on the point of: "*wrongful dismissal / notice period*".
6. The tribunal's powers concerning reconsideration of judgments are contained in rules 70 to 73 of the Employment Tribunals Rules of Procedure 2013. A judgment may be reconsidered where "*it is necessary in the interests of justice to do so.*" Applications are subject to a preliminary consideration. They are to be refused if the judge considers there is no reasonable prospect of the decision being varied or revoked. If not refused, the application may be considered at a hearing or, if the judge considers it in the interests of justice, without a hearing. In that event the parties must have a reasonable opportunity to make further representations. Upon reconsideration the decision may be confirmed, varied or revoked and, if revoked, may be taken again.

7. Under rule 71 an application for reconsideration must be made within 14 days the date on which the judgment (or written reasons, if later) was sent to the parties. I accept that this application was clearly made in time.
8. The approach to be taken to applications for reconsideration was set out in the case of *Liddington v 2Gether NHS Foundation Trust* UKEAT/0002/16/DA in the judgment of Simler P.
9. The tribunal is required to:
 - (a) identify the Rules relating to reconsideration and in particular to the provision in the Rules enabling a Judge who considers that there is no reasonable prospect of the original decision being varied or revoked refusing the application without a hearing at a preliminary stage;
 - (b) address each ground in turn and consider whether is anything in each of the particular grounds relied on that might lead ET to vary or revoke the decision; and
 - (c) give reasons for concluding that there is nothing in the grounds advanced by the Claimant that could lead him to vary or revoke his decision.
10. In paragraphs 34 and 35 of the judgment Simler P included the following: “*A request for reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or to reargue matters in a different way or adopting points previously omitted. There is an underlying public policy principle in all judicial proceedings that there should be finality in litigation, and reconsideration applications are a limited exception to that rule. They are not a means by which to have a second bite at the cherry, nor are they intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed but with different emphasis or additional evidence that was previously available being tendered. Tribunals have a wide discretion whether or not to order reconsideration. Where ... a matter has been fully ventilated and properly argued, and in the absence of any identifiable administrative error or event occurring after the hearing that requires a reconsideration in the interests of justice, any asserted error of law is to be corrected on appeal and not through the back door by way of a reconsideration application.*”
11. In this case there are no grounds advanced by the respondent – simply a request to reconsider the ‘*wrongful dismissal / notice period*’ issue.
12. I therefore do not find it is necessary in the interests of justice to reconsider the original decision. I refuse the application for reconsideration as I consider there is no reasonable prospect of the decision being varied or revoked. This is because no grounds are put forward by the respondent.

Employment Judge Rahman
Date: 9 February 2021

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