



EMPLOYMENT TRIBUNALS

Claimant: Mr D Farrell

Respondent: Shaw Trust Limited (1)
Mr Christopher Luck (2)

JUDGMENT

The claimant's application for reconsideration of the judgment sent to the parties on 8 April 2021 is refused.

REASONS

1. The application for reconsideration of the judgment has been considered pursuant to Rule 70 and 71 of the Employment Tribunal Rules (Constitution and Rules of Procedure) Regulations 2013 Schedule 1. Rule 70 provides that the Tribunal can reconsider a Judgment "where it is necessary in the interests of justice to do so". It is for the applicant to show that it is in the interests of justice for the Tribunal to reconsider its decision.
2. Under the old Tribunal Rules of Procedure, that were replaced by the existing version of the Rules on 29 July 2013, a party could only apply for a review (ie. reconsideration) on the specific grounds listed in the old Rule 34. Those grounds included that there was new evidence available and/or it was otherwise in the interests of justice to review the decision. As noted above, Rule 70 does not require the applicant to specify anything beyond that it is in the interests of justice for the Tribunal to reconsider its decision, nevertheless, the application has two main limbs, namely, that it is in the interests of justice for the Tribunal to reconsider its decision and that there is new evidence available.
3. The claimant's reliance upon Section 131 of the Employment Rights Act 1996 is misconceived because this provision is only relevant in circumstances where an Order for interim relief has been made.

4. As noted by the EAT in *Outasight VB Limited v Brown* UKEAT/0253/14 the previous case law on the interests of justice category under the old Tribunal Rules remains relevant to the exercise of the Tribunal's discretion under the current Rules. In this regard it was the norm for the interests of justice category to be relied upon successfully only in cases where something had gone wrong with the Tribunal's procedure, so that a party had been denied natural justice. Under the new Rules, the Tribunal's discretion is not wider; the same basic principles apply.
5. The main thrust of the claimant's application is that "relevant facts" are either not mentioned and appear to have not been considered or have been considered and documented incorrectly. The claimant is reminded that the purpose of an interim relief hearing is to facilitate an expeditious summary assessment on the materials available and it is not necessary or, indeed, appropriate, for a Tribunal to make determinations in relation to disputed facts. Save for the email referred to in paragraph 6 the claimant's application for reconsideration does not rely upon new material and is based solely upon an assertion that he disagrees with the assessment of the strength of his case. This is not a sound basis upon which to seek reconsideration because the interests of justice requires the Tribunal to have regard to the interests of the other party, and the public interest that there should be, where possible, finality when judgments are made. The purpose of reconsideration is not to facilitate a re-hearing or "second bite of the cherry".
6. Although the claimant's application states that there is new additional evidence, in the form of an email from the respondent, it does not appear that the additional evidence is relevant and that it would probably have had an important influence had it been available to put before me at the Preliminary Hearing on 18 March 2021.
7. For the reasons set out above, I consider that there is no reasonable prospect of the Judgment sent to the parties on 8 April 2021 being varied or revoked and therefore the claimant's application for reconsideration of that Judgment is refused.

Employment Judge Britton

28 April 2021