



EMPLOYMENT TRIBUNALS

BETWEEN

CLAIMANT

V

RESPONDENT

Mr N Chaudary

Rendall and Rittner Ltd

JUDGMENT

UPON an application for reconsideration, there are no reasonable prospects of the judgment sent to the parties on 1 April 2021 being varied or revoked.

REASONS

Law

1. Rule 70 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 provides that an Employment Tribunal may, either on its own initiative or on the application of a party, reconsider a judgment where it is necessary in the interests of justice to do so. On reconsideration, the judgment may be confirmed, varied or revoked.
2. Rule 71 states that an application for reconsideration shall be presented in writing (and copied to all the other parties) within 14 days of the date on which the written record, or other written communication, of the original decision was sent to the parties or within 14 days of the date that the written reasons were sent (if later) and shall set out why reconsideration of the original decision is necessary. In this case, judgment was given orally at the hearing and written reasons were sent on [].
3. A letter by the Claimant seeking a reconsideration was received by the Tribunal on 2 April 2020. On the face of it, therefore, the application is technically out of time. I have, however, exercised my discretion to extend time given the very short period between when the 14 days expired and when the application was received.

4. Under Rule 70, a judgment will only be reconsidered where it is necessary in the interests of justice to do so. This allows a Tribunal a broad discretion to determine whether reconsideration of a judgment is appropriate in the circumstances. The discretion must be exercised judicially, which means having regard not only to the interests of the party seeking the reconsideration, but also the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.
5. The procedure upon a reconsideration application is for the Employment Judge that heard the case to consider the application and determine if there are reasonable prospects of the judgment being varied or revoked. Essentially, this is a reviewing function in which I must consider whether there is a reasonable prospect of reconsideration in the interests of justice. There must be some basis for reconsideration. It is insufficient that a Claimant simply disagrees with the decision. If I consider that there is no such reasonable prospect, then the application shall be refused. Otherwise, the original decision shall be reconsidered at a subsequent reconsideration hearing.

Application

6. Following a preliminary hearing on 4 February 2021 the claim against the Respondent was struck out as I determined that the Respondent was not the employer.
7. This case has a lengthy history to it. The claim form was presented in 2018 and there had been a number of preliminary hearings even before the above hearing. At one of those hearings on 31 March 2020 the Tribunal ordered that another company, City House (Croydon) Management Company Ltd ("City House") be added as an additional Respondent as it was suggested that there was a possibility that this company may be the Claimant's employer. Following notification of the Tribunal's decision and being served the claim form, City House made an application for the order to be set aside. That application was heard on 22 October 2020 by Employment Judge Bryant QC at which the Claimant, the Respondent and City House all attended. The Claimant attended in person and the Respondent and City House were both represented.
8. For reasons given by Employment Judge Bryant QC at the hearing, the order joining City House was set aside. That decision was not appealed by the Claimant.
9. By email dated 6 April 2021, the Claimant asked for my decision to be reviewed stating "had I been given advice that my employers were City House, I would have pursued them". I have treated this as an application for

reconsideration.

Decision

10. I am afraid that the reasons given by the Claimant in support of reconsideration are not sufficient to persuade me that my decision at the above hearing was wrong. I determined that the Respondent was not the Claimant's employer. City House was not a party at that hearing. There is no current claim to add them to as a Respondent. The Claimant would therefore have to issue fresh proceedings against City House and face the inevitable argument by them that the claim is significantly out of time. If that course is taken by the Claimant, he should take legal advice first due to the significant obstacles he would face.

**Employment Judge Hyams-Parish
29 April 2021**