



EMPLOYMENT TRIBUNALS

Appellant: G D Precision Engineering Limited
Respondent: Richenda Jane Dixon (One of Her Majesty's Inspectors of H&S)

Heard at: Nottingham
On: 8 & 9 February 2021
Reserved to: 10 February 2021
Reserved decision for reconsideration to: 9 August 2021

Before: Employment Judge Blackwell (in chambers)

Decision of application for reconsideration

RESERVED JUDGMENT

Decision

1. The Appellants application for a reconsideration dated 15 March 2021 in respect of the Original Decision sent to the parties on 4 March 2021 is refused pursuant to rule 72(1) of the 1st Schedule to the Employment Tribunals (Constitution Rules and Procedure) Regulations 2013 is refused because there is no reasonable prospect of the Original Decision being varied or revoked.

RESERVED REASONS

.....”

Principles

70. A Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration, the decision (“the original decision”) may be confirmed, varied or revoked. If it is revoked it may be taken again.

Application

71. Except where it is made in the course of a hearing, 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.

Process

72.— (1) 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 (including, unless there are special reasons, where substantially the same application has already been made and refused), the application shall be refused and the Tribunal shall inform the parties of the refusal. Otherwise the Tribunal shall send a notice to the parties setting a time limit for any response to the application by the other parties and seeking the views of the parties on whether the application can be determined without a hearing. The notice may set out the Judge’s provisional views on the application.”

Introduction

1. By a Reserved Judgment sent to the parties on 4 March 2021 (the Original Decision) the Tribunal decided: -

“The unanimous decision of the Tribunal is that the Improvement Notice dated 21 November 2018 is affirmed subject to the modification set out at paragraph 78 of this decision”.

2. On 15 March 2021 Mr Dickins on behalf of the Appellant emailed the Tribunal saying he wished to *“Appeal to Courts to reconsider the Reserved Judgment in this case for the reasons stated below”*. Mr Dickins was asked to clarify whether he wished for a reconsideration pursuant to the rules set out above or whether he was in fact seeking to Appeal to The High Court by way of case stated.

3. By an email of 31 March, Mr Dickins confirmed that he wished the Tribunal to reconsider its decision for the reasons stated in his email to the Tribunal of 15 March.

4. By an email of 1 April, the Respondents pointed out that it was mandatory for an Employment Judge to first consider the application pursuant to Rule 72(1). By an email of 27 April, the Tribunal confirmed that no such mandatory consideration had been carried out, but it would be carried out as soon as practicable.

5. It was not practicable to carry out the reconsideration until today. Mr Dickins made further representations on 30 July enclosing what appeared to be three entirely new photographs and a document which largely repeats his reasons for seeking a reconsideration set out in his email of 15 March.

6. The Respondents made submissions sent to the Tribunal on 2 August largely asserting that it was mandatory for an Employment Judge to first consider the application pursuant to Rule 72(1) but also commenting on Mr Dickins submissions in the round.

Conclusions

7. As to the photographs these are so far as I can see new evidence and Mr

Dickins advances no reasons why they could not have been adduced in evidence at the original hearing. It is highly unlikely that they would have in any event influenced the decision.

8. The first reason advanced by Mr Dickins is that historic dishonesty allegations would need to be considered at the hearing pursuant to EJ Hutchinson's case management summary of 20 March 2020 and they were not. This was a matter for Mr Dickins to adduce evidence and in so far as he did so they were dealt with at paragraphs 40 – 42 of the Original Decision.

9. The next criticism by Mr Dickins is of paragraphs 31 and 32 of the Original Decision. He complains that he was not asked to explain the position during the hearing. The Tribunal considered the evidence that was put before it and made the findings of fact as set out in those paragraphs.

10. Mr Dickins then makes criticisms of paragraphs 33 and 34 of the Original Decision and the same rationale applies as to paragraphs 31 and 32.

11. The next criticisms are of paragraphs 36 and 37. Mr Dickins comments reflect the evidence he gave, and such was taken into account.

12. The next criticism is of paragraph 70. This again was a finding of fact based upon the evidence that we heard.

13. The next criticisms related to paragraphs 71, 72, 73 and 74. Again in the Tribunal's view these are simply reiterations of the evidence heard by the Tribunal with a gloss added by Mr Dickins. Again, he had the opportunity to present the evidence that he now does.

14. In the Tribunal's view taken singularly or cumulatively none of the matters now raised by Mr Dickins leads the Tribunal to conclude that there is any reasonable prospect of the Original Decision being varied or revoked. The application is therefore refused.

Employment Judge Blackwell

Date: 31 August 2021

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