



EMPLOYMENT TRIBUNALS

Claimant
Mr G Roomes

v

Peabody Trust
and its
subsidiaries

Respondent
and its

JUDGMENT ON RECONSIDERATION APPLICATION

The claimant's applications dated 9 and 10 August 2021 for a reconsideration of the judgment sent to the parties on 30 July 2021 are refused because there is no reasonable prospect of the original decision being varied or revoked.

REASONS

1. In a judgment sent to parties on 30 July 2021, the Employment Tribunal determined that the claimant was not unfairly dismissed.

2. In letters to the Tribunal dated 9 and 10 August 2021, the claimant applied for a reconsideration of the Tribunal judgment. The letter dated 9 August in essence disputes a number of factual findings made by the Tribunal. The letter of 10 August also narrates further disputes with the findings of the Tribunal but attaches a copy of the claimant's bank statement. The bank statement shows two purchases from Seventh Sun on 13 March 2020 although the specific time is not shown. This information was not available to the respondent at the time it made its investigations and decisions nor the Tribunal for the hearing. In his witness statement to the Tribunal, the claimant makes no reference to where he bought the CBD either on the first or the subsequent occasion on 13 March 2020.

3. There was an investigation report before the Tribunal along with a number of statements the most relevant of which was that of Mr Pyke [64]. At paragraph 7 of the judgment, the Tribunal finds, in relation to a meeting between the claimant and Mr Pyke, later on the day of the incident, that the claimant produced CBD to Mr Pyke:

"The claimant had purchased this product from a different store and was not the specific substance the claimant had been smoking on the morning of 13 March."

This paragraph is discussed at paragraph 44:

"He simply produced a new packet of CBD flowers and buds after the fact which he claimed to have purchased from a different shop."

This discussion is based on the investigation report, the statement made by Mr Pyke and the passage in the interview with the claimant where he says [78]:

"When Perry asked where I got it, I got flustered so I ended up getting something from a shop that I don't normally get it from which I showed to Steven and Perry – shop was called 7th heaven."

4. What the claimant purchased and the shop he purchased it from was a material part of the investigation by the respondent. The claimant does not explain why it is only now he is producing a bank statement which might contradict his own statement.
5. Rule 70 of the Employment Tribunal Rules of Procedure 2013 provides:
“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.”
6. The Tribunal was not prepared to interfere with its factual findings. Production of proof of the purchase from Seventh Sun on a second occasion on 13 March might have influenced the respondent in circumstances where when the respondent understood that the claimant had produced a different product from a different source. If the bank statement was not available at the early stage of the investigation, it should have been available for the appeal. Production of the bank statement at this stage cannot make a reasonable investigation unreasonable. The interests of justice are not served in these circumstances where the new evidence was available at the time.
7. The Tribunal considers that there are no grounds for revisiting the judgment within the scope of its powers of reconsideration under Rule 70 of the Employment Tribunal Rules of Procedure 2013.
8. The claimant’s application for reconsideration of the Judgment sent to the parties on 30 July 2021 is refused because there is no reasonable prospect of the original decision of the Tribunal being varied or revoked.

Employment Judge Truscott QC

Date: 27 August 2021