



EMPLOYMENT TRIBUNALS

Claimant: Quorous Slater

Respondent: Allen Ford (UK) Ltd

Heard at: London East

On: 11 August 2021

Before: Employment Judge Housego

Representation

Claimant: None

Respondent: None

JUDGMENT ON RECONSIDERATION

The judgment of the Tribunal is that the claimant's application for reconsideration is refused because there is no reasonable prospect of the decision being varied or revoked.

REASONS

1. At a hearing on 15 July 2021 I struck out all the Claimant's claims. The judgment set out the reasons for doing so. In essence, the claims were dismissed for failure to follow case management orders made by EJ Crosfill after a hearing on 19 March 2021, or as having no reasonable prospect of success.
2. The Claimant makes application (dated 02 August 2021) for a reconsideration of that judgment. It is 11 pages in length. In it, at paragraph 15.3 and again at 15.14 the Claimant accepts that she did not comply with that order. She says both that the notice pay claim was withdrawn, and then says that she wished

to pursue it. The document follows the style of other documents submitted by her in the course of these proceedings.

3. The relevant procedural rules are in Schedule 1 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013. Those relevant Rules are as follows:

RECONSIDERATION OF JUDGMENTS

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.

(2) If the application has not been refused under paragraph (1), the original decision shall be reconsidered at a hearing unless the Employment Judge considers, having regard to any response to the notice provided under paragraph (1), that a hearing is not necessary in the interests of justice. If the reconsideration proceeds without a hearing the parties shall be given a reasonable opportunity to make further written representations.

(3) Where practicable, the consideration under paragraph (1) shall be by the Employment Judge who made the original decision or, as the case may be, chaired the full tribunal which made it; and any reconsideration under paragraph (2) shall be made by the Judge or, as the case may be, the full tribunal which made the original decision. Where that is not practicable, the President, Vice President or a Regional Employment Judge shall appoint another Employment Judge to deal with the application or, in the case of a decision of a full tribunal, shall either direct that the reconsideration be by such members of the original Tribunal as remain available or reconstitute the Tribunal in whole or in part.

Reconsideration by the Tribunal on its own initiative

73. *Where the Tribunal proposes to reconsider a decision on its own initiative, it shall inform the parties of the reasons why the decision is being reconsidered and the decision shall be reconsidered in accordance with rule 72(2) (as if an application had been made and not refused).*

4. The application was made promptly. The Respondent has not made any observations on it.
5. The Tribunal goes to considerable lengths to assist unrepresented claimants to set out their cases. EJ Crosfill exemplified that approach. He spelt out with clarity exactly what the Claimant needed to do. The Claimant accepts that she did not do it.
6. There is a limit to what a Tribunal can or should do, as was clearly set out by Stacey J in Marrufo v Bournemouth Christchurch And Poole Council (PRACTICE AND PROCEDURE) [2020] UKEAT 0103_20_0312 (03 December 2020):

“38. The underpin to the exercise of the wide powers of case management is the Tribunal’s overriding objective which enables cases to be dealt with fairly and justly. Dealing with a case fairly and justly includes, so far as practicable, showing that the parties are on an equal footing, dealing with cases in a way which is proportionate to the complexity and importance of the issues, avoiding unnecessary formality and seeking flexibility in the proceedings, avoiding delays so far as compatible with proper consideration of the issues and saving expense. Those are all important matters, some of which do not easily sit alongside each other. It is the duty of the Tribunal to have all those matters in its mind so that it can exercise its discretion fairly and justly. Precision, specificity and clarity are required in the statements of case or pleadings in the Tribunal, particularly in discrimination complaints and complaints where a number of causes of action are relied on. The Respondent has to know the case it has to meet to enable it to respond with equal precision, specificity and

clarity and to enable both sides to understand the issues in dispute and prepare for an eventual hearing.

39. The politest description of the Claimant's approach to her claim was that it was something of a moveable feast. It was an evolving concept in her mind which involved various iterations. It lacked specificity, it was not framed by reference to the applicable legal tests, did not set out the ingredients of the various claims or causes of action relied on and it thus made it extremely hard for the Tribunal, for the Respondent and indeed for the Claimant herself. To my mind the Employment Tribunal conducted a very careful and effective case management exercise in seeking to unknot, unravel and identify the claims from the morass of vague generalisation and correspondence that the Claimant had supplied them with. ..."

7. The Claimant's pleadings in this case are similar to those of Ms Maruffo. In *Maruffo* the appeal was about refusal to permit amendment to add a new claim, but the principles are the same, concerning pleadings.
8. In Cox v Adecco & Others UKEAT/0339/19/AT (V) Tayler J pointed out that a judge has to understand a claim before deciding to strike it out as having no reasonable prospect of success. The difficulty with the Claimant's case is that after great efforts have been made by Judges (including me) to find out what it is (as described by Stacey J above) it is not possible to do so. Even in her application for reconsideration the points set out in my judgment are not addressed.
9. The Claimant accepts that she did not comply with the order of EJ Crosfill, and did not do so even in the application for reconsideration.
10. In the hearing on 15 July 2021 there was not a "trial within a trial" but a further attempt to try to find out what the Claimant's claims were, unsuccessfully. Accordingly two judges have spent considerable time and effort attempting to do so, and with the Claimant not assisting by failing to comply with clear direction from EJ Crsofill. It is still not possible to discern the claims of the Claimant to which the Respondent may sensibly plead. In so far as a claim can be discerned it was clear to me (and remains so) that there is no reasonable prospect of success (for the reasons given in the judgment).
11. The substance of the application is to reargue the matters set out in narrative form, which was fully addressed in the hearing. Accordingly I decline to reconsider the judgment, as the application is no more than a disagreement with its conclusions.

Employment Judge Housego
Dated 11 August 2021