



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr Amir Jafar Gholi

v

Studio 137 Limited

JUDGMENT ON APPLICATION FOR RECONSIDERATION

1. The Respondent's application dated 27 September 2021 for reconsideration of the judgment dated 18 August 2021 ("the Judgment") is refused. There are no reasonable prospects of the judgment being varied or revoked.
2. The Claimant's application dated 23 October 2021 for reconsideration of the Judgment is also refused. The application was made out of time and the Employment Tribunal has no jurisdiction to hear it.
3. The Judgment is confirmed.

REASONS

1. By rule 70 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 ("the Rules") the Employment Tribunal may 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. An application for reconsideration shall be presented in writing (and copied to all other parties) within 14 days of the date upon which the written record of the original decision was sent to the parties. In this case the written record was the judgment and reasons dated 18 August 2021, which was sent to the parties on 13 September 2021.
3. Under Rule 70, a judgment will only be reconsidered where it is necessary in the interests of justice to do so. This allows an Employment Tribunal a broad discretion to determine whether reconsideration is appropriate in the circumstances. The discretion must be exercised judicially. This 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.
4. 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. This is a reviewing function in which the Judge must consider whether there is a reasonable prospect of the original decision being varied or revoked (rule 72). Reconsideration cannot be ordered simply because the applicant disagrees with the judgment.

5. If the Judge considers that there is no such reasonable prospect then the application shall be refused. Otherwise, the Judge shall send a notice to the parties setting a time limit for any response to the application by the other party and seeking the views of the parties on whether the application can be determined without a hearing (rule 72). My role, upon the considering of the application upon the papers initially, is therefore to operate as a filter to determine whether there is a reasonable prospect of the Judgment being varied or revoked were the matter to be the subject of a reconsideration hearing.
6. On 27 September 2021, Mr Lotay (the Respondent's Director) sent an email to the Employment Tribunal in which he made an application on behalf of the Respondent for reconsideration of the Judgment. That application was presented within the relevant time limit provided for in the Rules.
7. The Respondent's application is no more than a disagreement with the factual findings of the Tribunal. The Respondent's argument made at the hearing (and repeated in the application for reconsideration) that the Claimant was a self-employed contractor was fully considered. Adequate reasons were given for rejecting that argument.
8. I am satisfied that I applied the law correctly and gave full reasons for the decision I reached. In my judgment, there are no reasonable prospects of the Judgment being varied or revoked. It is not necessary in the interests of justice to reconsider the Judgment. Accordingly, the Respondent's application for reconsideration fails and is dismissed.
9. On 23 October 2021, the Claimant sent an email to the Employment Tribunal in which he also made an application for reconsideration of the judgment. The application was presented outside of the relevant time limit provided for in the Rules. No application has been made to extend time and no grounds have been identified which would justify any such extension. The Tribunal has no jurisdiction to consider that application and it is dismissed.
10. Even if the Claimant's application had been made in time, however, I would still have dismissed it. As above, it is no more than a disagreement with the findings of the Tribunal. The Claimant identifies no new facts which might justify allowing an amendment to include a claim for automatic unfair dismissal. His claim to have been ignorant of his rights, the short period of time he has been in the country and the fact that English is his second language were all matters which I addressed when reaching the decision to refuse to amend the claim.
11. In the circumstances, there was no need to consider whether the Claimant was an employee of the Respondent and no benefit would be obtained by reconsidering the conclusion that the Claimant was a worker. The only live

claim was for unauthorised deductions of wages, for which the Claimant's status (as found by the Tribunal) as a worker was sufficient.

Employment Judge Smeaton

Date: 7 November 2021

Judgment sent to the parties on

18/11/2021

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For the Tribunal office