



EMPLOYMENT TRIBUNALS

Claimant: Mr P Nechita

Respondent: Epidaurus Limited (t/a Barracuda Restaurant)

JUDGMENT

The Claimant's application of **22 November 2021** for reconsideration of the judgment sent to the parties on **8 November 2021** is refused.

REASONS

1. The Claimant makes an application for reconsideration.
2. Under Rule 72(1) of the Employment Tribunal Rules 2013, I must first consider whether there is a reasonable prospect of the Judgment being revoked or amended.
3. One of the principles I apply is the public interest in the finality of litigation. Litigation is stressful, expensive and time consuming: unless there are exceptional circumstances, the hearing of a claim is the *only* opportunity to put forward evidence and arguments. This is fair to both parties and to the Tribunal administration and to all the other parties with cases waiting to be heard. Therefore a party who relies on a new fact or argument after a hearing, must show they could not have told the Tribunal that fact or argument at the hearing.
4. In general, the Claimant has raised a number of new factual arguments to support his application. He had the opportunity to raise them all at the time and did not do so. It is not therefore in the interests of justice to allow a reconsideration of our judgment on those new factual arguments. The reconsideration application on those points has no reasonable prospect of success.
5. I have considered each of the points the Claimant has raised in his letter of 22 November 2021.

6. The Claimant complains that he feels treated like a dishonest person. Our job as a Tribunal was to decide what was *more likely* to have occurred. We did so by weighing the evidence and deciding that, on the disputes we had to decide, we preferred the evidence of the Respondent's witnesses. This point therefore has no reasonable prospect of success: the claimant seeks to change the Tribunal's decided view on the basis of how he feels about it. This is not enough.
7. The Claimant refers to an offer to settle prior to the hearing. This is not a fact that we are allowed to take into account. (In any event it is an unsurprising offer: many employers try to avoid the costs and inconvenience of a hearing by making such offers. It is not relevant to the dispute.)
8. The Claimant queries, as he did at the hearing, why the money claims were satisfied so late. Once the money claims were paid, we did not have any power to hear them. This point does not have any prospect of changing the judgment.
9. The Claimant queries why he was not dismissed when he did not give his personal details/documents having been asked for them. This is a question he could have raised at the hearing. It is not therefore in the interests of justice to allow a reconsideration on this point. In any event, he had been employed for a very short period and the point is not persuasive.
10. The Claimant puts forward evidence we did not know about at the hearing: that he also did cleaning. These are facts the Claimant could have told us about at the hearing but did not do so. It is not in the interests of justice for us to hear this evidence now, as I have explained above.
11. The Claimant again refers to the evidence of the Respondent that the owner shared food with him. The relevance of this evidence was about the sharing of religion. It went to whether there was any dislike of the Claimant because of his nationality (his religious culture arguably being part of that). The Claimant made the comments his application for reconsideration at the hearing. It is not therefore in the interests of justice for us to reconsider the judgment on this ground. We decided that the food sharing was relevant to the owner of the Respondent sharing a religion with the Claimant and joining with him during Lent. It was not evidence of mistreatment.
12. The Claimant asserts unequal treatment: we considered his evidence and arguments at the hearing and gave our reasons for rejecting them. He does not make any new point on this in his application for a reconsideration. It is not therefore in the interests of justice to reconsider the judgment on this ground.
13. The Claimant states new facts about why he was paid partly in cash and partly via his bank account at the end of his employment. He could have told the tribunal those facts at the hearing but chose not to. It is not therefore in the interests of justice to reconsider the judgment on this ground, as I have explained above.

14. The application for reconsideration therefore fails.

Employment Judge Moor

Date: 2 December 2021