



EMPLOYMENT TRIBUNALS

Claimant: Mr A Ekoue

Respondent: Samworth Brothers t/a Bradgate Bakery

JUDGMENT ON A RECONSIDERATION

The Claimant's application for a reconsideration is refused because there is no reasonable prospect of the decision being varied or revoked.

REASONS

Background

1. This case was subject to a preliminary hearing before me on 16 & 17 June 2021. I made a reserved judgment (which was sent to the parties on 8 December 2021) as follows:

"1. The claimant's application to amend his claim to include allegations one, two and three is refused.

2. Allegation four is struck out because it has no reasonable prospect of success."

The reconsideration application

2. The Claimant made an application for a reconsideration of my decision on 19 December 2021. His application is pursued on three grounds, namely:
 - i. That during the course of the proceedings the Respondent was in breach of the Tribunal's orders;
 - ii. That Rules 2a and 2b were not followed and I had not carefully checked and rechecked my reasons before sending them to the parties; and

- iii. That I made my decision without fully understanding the allegations relied on because there was insufficient time for the Claimant to explain them.

The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 (“the Rules”)

3. The Rules provide:

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.....’

4. Broadly, it is not in the interests of justice to allow a party to reopen matters heard and decided, unless there are special circumstances, such as a procedural irregularity depriving a party of a chance to put their case or where new evidence comes to light that could not reasonably have been brought to the original hearing and which could have a material bearing on the outcome. It is not sufficient for the Claimant to apply for a reconsideration simply because they disagree with the decision.

Considerations

5. The Claimant's first point is without merit. The Respondent was not in breach of any orders. There was a minor copying mishap in the bundle, but the Claimant had the missing page of the document in his possession in any event.
6. I am not clear why the Claimant says that my reasons were not carefully checked and re-checked – I can assure him that they were.
7. Turning to the third point, the Claimant asserts that there was insufficient time for him to explain, and for me to understand, the allegations that formed the basis of his application to amend. This is simply incorrect.
8. By way of background, the hearing was also listed to deal with the Claimant's partner's claim. However, both days were used to fully understand the Claimant's case and the application to amend his claim and, at the close of the second day of the hearing, his claim had been explored in full. There was insufficient time to allow the Respondent to make its representations in response and his partner's claim had to be re-listed for alternative dates.
9. The Respondent was ordered to provide written submissions and hearing was adjourned so I could deliberate the application thereafter. It was agreed that I would deliver my judgment at the outset of the reconvened hearing. Unfortunately, the reconvened hearing was postponed twice and, therefore, I sent out my judgment in writing.
10. The Claimant is mistaken in his understanding that there would be a further opportunity to explain his case and he was not, therefore, deprived of the chance to put his case.
11. Accordingly, the Claimant has not advanced any reason to persuade me that the interests of justice require my decision to be reconsidered.

Conclusion

12. Having considered the Claimant's application, I am satisfied that there is no reasonable prospect of the original decision being varied or revoked and it is not in the interests of justice to reconsider it. The application is, therefore, refused.

Employment Judge Victoria Butler

Date: 5 January 2022

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