Case No: 1405042/2019

EMPLOYMENT TRIBUNALS

BETWEEN

Claimant	**Respondent**
Mr S Lannin	**Solent University**

Employment Judge Matthews

Judgment on Application for Reconsideration

Acting in accordance with rule 72 of the Employment Tribunals Rules of Procedure 2013 (the "Rules") the Employment Judge refuses Mr Lannin's application for a reconsideration of the Judgment sent to the parties on 2 December 2021 (the "Judgment"). The Employment Judge considers that there is no reasonable prospect of the original decision being varied or revoked.

Reasons

Introduction and applicable law

1. The Employment Judge must consider this application by reference to rules 70, 71 and 72 of the Rules. So far as they are applicable they read as follows:

"70 Principles

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.

71 Application

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.

72 Process

(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 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."

2. On 2 December 2021 the Judgment was sent to the parties. On 16 December 2021, within the fourteen day time limit, Mr Lannin's application for reconsideration was received by the Employment Tribunals.

Conclusions

3. The substance of Mr Lannin's application is set out in a 15 page document headed "Appeal against the Decisions Case No: 1405042/2019" attached to his email to the Employment Tribunals of 2 December 2021. Whilst the Employment Judge has read the whole of Mr Lannin's application, it is not appropriate to respond individually to the points raised (with the exception of one). The reasons for this are explained in paragraph 5 below. Generally, however, Mr Lannin may find it helpful to refer to paragraphs 89, 99 and 100 of the Judgment.

4. The point that it is appropriate to deal with is that both the Respondent's representatives and Mr Lannin have raised the erroneous references to "Professor Lloyd" in paragraphs 154 and 156 of the Judgment. As they rightly point out, those should have been references to "Professor Baldwin". In context and from the Tribunal's findings of fact, the mistakes are an obvious slip by the Employment Judge in preparing the written Judgment. This will be corrected under rule 69 of the Rules and an amended Judgment will be sent to the parties and placed on the public record.

5. To the extent that the matters now raised by Mr Lannin were raised by him at the hearing, they were considered in the light of all of the evidence presented to the Tribunal before it reached its unanimous decision. The Employment Appeal Tribunal ("the EAT") in *Trimble v Supertravel Ltd* [1982] ICR 440 decided that if a matter has been ventilated and argued then any error of law falls to be corrected on appeal and not by review. In addition, in *Fforde v Black* EAT 68/60 the EAT decided that the interests of justice ground of review does not mean *"that in every case where a litigant is unsuccessful he is automatically entitled to have the tribunal review it. Every unsuccessful litigant thinks that the interests of justice require a review. This ground of review only applies in the even more exceptional case where something has gone radically wrong with the procedure involving a denial of natural justice or something of that order"*. This is not the

case here. In addition it is in the public interest that there should be finality in litigation, and the interests of justice apply to both sides.

6. Accordingly the Employment Judge refuses the application for reconsideration pursuant to Rule 72(1) because there is no reasonable prospect of the Judgment being varied or revoked.

Employment Judge Matthews
Dated: 31 December 2021

Judgment sent to parties: 14 January 2022

FOR THE TRIBUNAL OFFICE