



EMPLOYMENT TRIBUNALS

Claimant: Mr S Greeves

Respondent: Stamford Products Limited

DECISION ON AN APPLICATION FOR RECONSIDERATION

I reject the claimant's application for reconsideration under Rule 70(1) of the Tribunal's Rules of Procedure 2013: there is no reasonable prospect of the tribunal's original judgment being varied or revoked.

Introduction

1. By a Letter dated the 16th November 2021 Ms Curtis, who assists Mr Greeves, the Claimant, wrote to the Manchester Employment Tribunal asking if the Employment Appeal Tribunal could consider one aspect of my judgment promulgated on 2nd November 2021. She stated as follows:

"... Mr Stephen Greeves asks that the employment appeal tribunal could look at the judgement in regards to dismissing the unfair dismissal part of the claim due to time out limits.

2. This is a reference to my conclusion that the Claimant's pleaded allegation of unfair dismissal was not within the Employment Tribunal's jurisdiction because it had not been presented within the statutory period when it was reasonably practicable to have done so.
3. I have read Ms Curtis' letter with care and I hope I have correctly identified the three points upon which she has focused. They are as follows:
 - a. "Although Judge Powell references that the Claimant had full guidance and support from his trade union throughout the process the claimant clearly shows he did not and this is referenced and acknowledged by Judge Johnson in the previous preliminary hearing and case order notes".

- b. "Judge Powell also states in his judgment that the claimant had the benefit of a HR professional to assist him with his claim, this again wasn't the case The claimant merely lent on friends to assist him and had no legal or professional guidance. Guidance was sought through searches on the Internet by friends who tried to help the claimant as he was unable due to health issues able to do this himself".
 - c. "As with Mr Greeves he has also been assessed by the benefits office due to his depression and also has medical evidence covering the whole period and not fit for work statements issued by his Doctor. To back up his claim of ill health and this evidence has been accepted by Judge Powell as a professional diagnosis due to this under section 6 of The Equality Act 2010 i ask that the appeal tribunal reconsider the reasonable time frame that Mr Greeves claim was submitted whilst taking his Ill health and disability into consideration".
4. The claimant's case asserted two heads of claim; unfair dismissal and disability discrimination. Both these claims were, on the face of the pleaded case, out of time.
 5. The legal matrices applicable to section 111 of the Employment Rights Act 1996 and section 123 of the Equality Act 2010 are different in some respects and my judgment addressed each separately, and made some findings of fact which were discrete to the relevant statute.
 6. My judgment on the unfair dismissal claim is set out in paragraphs 81-93 of the Reasons.

Trade Union Support: Paragraph 3.a

7. With regard to my findings of fact on the topic of the claimant's trade union support, I found as follows:

" 87. In my judgment the reason why the claim was not presented before the 5th July and why the ACAS conciliation process had not been commenced before that date, was Mr Greeves' reliance on his trade union, particularly in the last month of the three-month period, and the absence of any advice from his trade union representative on the time limits or the necessity of commencing Early Conciliation before the 5th July 2020.

89. I find that the trade union had been sufficiently instructed to act as Mr Greeves' representative during the disciplinary and appeal process and had sufficient information to submit an ET1 on his behalf."

8. In short, I found that the Claimant's trade union officer's inaction was the reason why the claim had not been presented within the prescribed period. I made express findings that there was an absence of relevant advice.

Advice from a HR Specialist: Paragraph 3.b

9. At paragraph 104 of the Reasons, which addressed section 123 of the Equality Act 2010, not section 111 of the Employment Rights Act 1996, I recorded a finding of fact:

“ 104. With assistance, he found a professional Human Resources specialist who took his instructions and submitted the claim on his behalf on the 7th August 2020”.
10. This finding of fact was based on the claimant’s evidence. It was not a finding that the claimant had advice or assistance beyond the drafting and submission of the ET1 form.
11. In any event, it was not a finding that was taken into account for the purposes of section 111 of the ERA 1996 because the HR specialist was not instructed until some time after the end of the relevant three-month period.

The Claimant’s Mental Health: Paragraph 3.c

12. Paragraphs 103 and 105 record that the claimant’s disability was taken into account, and was part of the reason why the time for the presentation of the disability discrimination claims was extended in accordance with Section 123(1)(b) of the Equality Act 2010.
13. With respect to the unfair dismissal claim, the claimant’s case, which I accepted, asserted that the cause of the delay was the trade union officer’s inaction; which I upheld; see paragraphs 86, 87 and 100 of the Reasons. In his evidence, that claimant. Indicated that he was reliant upon that advice. It was the absence of advice, rather than the claimant’s health, that caused the delay in the presentation of the claim.

Conclusions

14. In summary, I find reconsideration complaint regarding my findings of fact about the character of the trade union’s is inaccurate.
15. The reference to the HR specialist had no influence on my decision on the claimant’s application for an extension of time under section 111 ERA 1996.
16. The claimant’s case for section 111 was based on his trade union’s failings and the claimant’s dependence on the union because of his deteriorating health. His health was not the cause of the union’s inaction during the relevant period.
17. I find that the above grounds of complaint have no reasonable prospect of leading to the revocation or variation of the judgement.

18. For the above reasons, I do not consider that this application for reconsideration has any reasonable prospect of success.

Employment Judge R F Powell

Dated: 14th January 2022

ORDER SENT TO THE PARTIES ON

21 January 2021

FOR THE SECRETARY TO EMPLOYMENT TRIBUNALS