



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Respondent

Ms A Brito Brito

One Step Recruitment Ltd

Employment Judge Matthews

Judgment on Second Application for Reconsideration

Acting in accordance with rule 72 of the Employment Tribunals Rules of Procedure 2013 (the “Rules”) the Employment Judge refuses the Respondent’s application for a reconsideration of the Judgment sent to the parties on 17 February 2022 (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 17 February 2022 the Judgment was sent to the parties. On 3 March 2022, within the fourteen day time limit, the Respondent's application for reconsideration was received by the Employment Tribunals.

Conclusions

3. The substance of the Respondent's application is set out in a short email from Mr Mock to the Bristol Office of the employment tribunals timed at 1800 on 3 March 2022. It is a straightforward request to reconsider the amount of the award made to Ms Brito Brito in respect of injury to feelings for the discrimination found.

4. The Tribunal set out its reasons for making the award at the level it did in paragraphs 127-131 of the Judgment. If the Employment Judge understands the application correctly, the argument is that Ms Brito Brito has chosen to remain in the Respondent's employment and that demonstrates that any injury to feelings she suffered is not as great as the Tribunal found it to be. That argument must fail. The fact that Ms Brito Brito was in the Respondent's employment at the time of the trial was taken into consideration. That she has subsequently chosen to remain in employment has no bearing on the issue.

5. 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 in Chambers
Dated: 18 March 2022

Judgment sent to parties: 21 March 2022

FOR THE TRIBUNAL OFFICE