



EMPLOYMENT TRIBUNALS

Claimant

Mr M Szlacheta

v

Respondent

(1) Warlite Security Ltd
(2) First4Freelancers

JUDGMENT ON APPLICATION FOR RECONSIDERATION

1. The Claimant's application dated 11 November 2021 for reconsideration of the judgment dated 22 October 2021 dismissing the claim for a redundancy payment upon withdrawal, is refused. There are no reasonable prospects of the judgment being varied or revoked.
2. The judgment is confirmed.

REASONS

1. By rule 70 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 ("the Rules") the Employment Tribunal may reconsider a judgment where it is necessary in the interests of justice to do so. On reconsideration, the judgment may be confirmed, varied or revoked.
2. An application for reconsideration shall be presented in writing (and copied to all other parties) within 14 days of the date upon which the written record of the original decision was sent to the parties. In this case the written record was the judgment and reasons dated 22 October 2021, which was sent to the parties on 29 October 2021.
3. Under rule 70 of the Rules, a judgment will only be reconsidered where it is necessary in the interests of justice to do so. This allows an Employment Tribunal a broad discretion to determine whether reconsideration is appropriate in the circumstances. The discretion must be exercised judicially. This means having regard not only to the interests of the party seeking the reconsideration but also the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.
4. The procedure upon a reconsideration application is for the Employment Judge that heard the case to consider the application and determine if there are reasonable prospects of the judgment being varied or revoked. This is a

reviewing function (rule 72 of the Rules). Reconsideration cannot be ordered simply because the applicant disagrees with the judgment.

5. If the Judge considers that there is no such reasonable prospect then the application shall be refused. Otherwise, the Judge shall send a notice to the parties setting a time limit for any response to the application by the other party and seeking the views of the parties on whether the application can be determined without a hearing (rule 72 of the Rules).
6. My role, upon the considering of the application upon the papers initially, is therefore to operate as a filter to determine whether there is a reasonable prospect of the Judgment being varied or revoked were the matter to be the subject of a reconsideration hearing.
7. On 11 November 2021, the Claimant sent an email to the Employment Tribunal in which he made an application for reconsideration of the Judgment. That application was presented within the relevant time limit provided for in the Rules.
8. Having considered the application, and the Respondent's response which was sent to the Tribunal, I am satisfied that there is no reasonable prospect of the decision being revoked or varied. It is not necessary in the interests of justice to reconsider the Judgment. Accordingly, the Claimant's application for reconsideration fails and is dismissed.
9. The Claimant confirmed at the preliminary hearing on 20 October 2021 that he did not consider himself to have been made redundant and was not arguing that he was redundant. The Respondent confirmed at the preliminary hearing on 20 October 2021 that it was not the First Respondent's case that the Claimant had been made redundant. Accordingly, the Claimant agreed that he did not have a claim for a redundancy payment and that element of the claim was recorded as dismissed upon withdrawal.
10. Rule 51 of the Rules provides that when a Claimant informs the Tribunal in writing, or in the course of a hearing, that a claim is withdrawn, the claim comes to an end.
11. Rule 52 of the Rules provides that the Tribunal shall issue a judgment dismissing the claim upon withdrawal unless, at the time of the withdrawal, either the Claimant has expressed a wish to bring such a further claim and the Tribunal is satisfied that there would be legitimate reason for doing so, or the Tribunal believes that the issue of a judgment dismissing the claim would not be in the interests of justice.
12. Judgment dismissing the claim upon withdrawal was signed on 22 October 2021 and issued on 29 October 2021.
13. The Claimant maintains that his withdrawal of the claim was due to his limited English skills. However there is nothing within the pleadings to suggest that this case concerns redundancy and the Claimant does not, in any event, have the requisite length of service to bring a claim for redundancy payment.
14. Accordingly, the claim for a redundancy payment has no reasonable prospect

of success and, if it were to be reviewed and reinstated, would be bound to fail.

15. The Claimant has not, by withdrawing this element of the claim, withdrawn his claim for automatic unfair dismissal. That claim, together with the other issues set out in the list of issues, will proceed to a final hearing.

Employment Judge Smeaton

Date: 4 March 2022

Judgment sent to the parties on

23/3/2022

N Gotecha
For the Tribunal office