



EMPLOYMENT TRIBUNALS

Claimant: Mr. C A Roman

Respondent: Toyoko Inn Limited

JUDGMENT - RECONSIDERATION

The claimant's application dated 1 April 2022 for reconsideration of the judgment sent to the parties on 18 March 2022 is refused.

REASONS

1. I have undertaken preliminary consideration of the claimant's application for reconsideration of the judgment dismissing his claims. That application is contained in a 5-page letter attached to the email from the claimant dated 1 April 2022. Whilst the claimant asked for the application to be placed before Employment Judge Holmes, as the claimant's application is for a reconsideration of my judgment (not EJ Holmes) it is appropriate that the claimant's application is considered by me (see Rule 72(3) of the Employment Tribunal Rules of Procedure 2013 – ET Rules).

The Law

2. An application for reconsideration is an exception to the general principle that (subject to appeal on a point of law) a decision of an Employment Tribunal is final. The test is whether it is necessary in the interests of justice to reconsider the judgment (rule 70).

3. Rule 72(1) of the 2013 Rules of Procedure empowers me to refuse the application based on preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked.

4. In common with all powers under the 2013 Rules, preliminary consideration under rule 72(1) must be conducted in accordance with the overriding objective which appears in rule 2 namely, to deal with cases fairly and justly.

The Application

5. Most of the 32 of the points raised by the claimant in his application are attempts to continue arguments of liability in the dismissed case and therefore are not relevant to the application for reconsideration of my judgment.

6. However, paragraphs 1,2, 31 and 32 in the claimant's letter do raise points of potential relevance and I address these below.

7. In paragraph 1 the claimant states, correctly, that I was not present at the final hearing and that the judgment is based on assumptions that I have made.

8. Paragraph 2 also notes that there is no record of the final hearing, that a record should have been produced and made available at the hearing on 10 March 2022.

9. I have considered the points raised in paragraphs 1 and 2. As I make clear in the Judgment, I was mindful that I had not been the judge at the final hearing and ensured therefore that the claimant provided evidence about the relevant events of that hearing. That evidence was largely accepted and led to my decision to dismiss the claim under Rule 47 of the ET Rules.

10. In paragraph 31 the claimant refers to the overriding objective. It is clear from the terms of my judgment (see particularly paragraph 59) that the overriding objective was considered by me in reaching my decision.

11. In paragraph 32 the claimant asks for the decision to be overturned so that the hearing can resume, noting that not allowing it will be against the interests of justice and the public interest.

12. It is apparent from the information before me at the hearing on 10 March 2022 and the further points raised by the claimant in his reconsideration application, that he is of the view that the respondent and its agents have been engaged in the most serious misconduct. My judgment does not prevent the claimant reporting serious wrongdoing to appropriate authorities where it is in the interests of justice and public interest to do so. However, and as set out in my judgment, the claimant chose not to attend the Tribunal hearing on the final 2 days that had then been listed. It is those actions that I was required to consider on 10 March 2022 when determining the respondent's application for the claimant's claims to be dismissed under Rule 47.

Conclusion

13. Having considered all the points made by the claimant I am satisfied that there is no reasonable prospect of the original decision being varied or revoked. The points of significance were considered and addressed at the hearing. The application for reconsideration is refused.

Employment Judge Leach

DATE 5 April 2022

Case No: 2415339/2018

JUDGMENT AND REASONS SENT TO THE PARTIES ON
Date 21 April 2022

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FOR THE TRIBUNAL OFFICE