



EMPLOYMENT TRIBUNALS

Claimant: Mr B Webster

Respondent: Diamond Bus (North West) Ltd

RECONSIDERATION JUDGMENT

Upon the claimant's application for reconsideration of the Tribunal's judgment with reasons dated 16 June 2021, the application is refused. The original judgment is confirmed.

REASONS

1. Following a preliminary hearing at which the claimant's application for interim relief was heard on 16 June 2021, the Tribunal's written judgment and written reasons were sent to the parties shortly afterwards.
2. The Tribunal's judgment was that the claimant's application for interim relief was not well-founded. The application was refused. The claim was listed for final hearing and case management orders were issued.
3. The Tribunal has treated the claimant's emails of 23 and 26 May 2022 as an application for reconsideration of the interim relief judgment. Those emails were referred to the judge on 16 June 2022 and considered by him on 21 June 2022.
4. As the reconsideration rules require, the application has been considered by the judge in the first stage of the reconsideration process. The respondent is not at this stage required to respond to the application.
5. The claimant relies upon evidence that has now been disclosed in the proceedings (perhaps because of the case management orders or otherwise) as a basis for reopening the decision refusing his application for interim relief. The judge has reviewed that evidence. He makes no comment on that evidence, which will fall for consideration at the final hearing.

6. The judge had explained the basis upon which an interim relief application may be made and considered at paragraphs 12-18 of his written decisions. The determination of an interim relief application is made based on what is essentially a snapshot of the position as it appears to the Tribunal as at the date of the interim relief hearing. It requires an expeditious and summary assessment of the respective merits of the claim and of the response at that time and at that stage of the proceedings. That is based upon how the matter appears to the Tribunal founded upon the material available to it at that point. It does its best with what is inevitably incomplete and untested evidence. The greater reliance is placed upon the pleadings. Generally speaking, it does not hear witness evidence and the range of documentary evidence available to it is necessarily limited. Crucially, the Tribunal makes no findings of fact at an interim relief hearing because that is for the final hearing.
7. This application for reconsideration is made almost a year after the interim relief hearing and considerably longer than 14 days after the judgment and reasons were sent to the parties, as rule 71 requires. It is out of time. The fact that the claimant has uncovered evidence that *might* now help his case (if in fact it does) is not an automatic reason for extending time under rule 5, as might be permitted.
8. However, that would be to miss the point, in any event, which is that this evidence is properly be considered at the final hearing and not by seeking to reopen an interim relief hearing conducted a year ago. To decide otherwise would be to ignore the purpose of an interim relief hearing and to risk exciting applications for reconsideration of an interim relief decision at regular intervals in the subsequent case management process as, quite properly, documentary evidence is disclosed, and witness evidence is exchanged. A case will inevitably look somewhat different now as the final hearing approaches than it appeared when the interim relief application was made or heard.
9. There is otherwise nothing in the application for reconsideration that would permit the Tribunal to reopen its decision to refuse interim relief. Which is not to say that there can never be circumstances in which an interim relief decision could be reviewed – this is simply not such a case.
10. The claimant's application for reconsideration made under rules 70 and 71 is not well-founded. It is refused. Acting in accordance with rule 72, the judge considers that the interests of justice do not require that the judgment or its reasons be varied or revoked. There is no reasonable prospect of such variation or revocation. The judgment and its reasons are confirmed.

Judge Brian Doyle
Date: 21 June 2022

RECONSIDERATION JUDGMENT & REASONS
SENT TO THE PARTIES ON
27 June 2022

FOR THE TRIBUNAL OFFICE

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