



EMPLOYMENT TRIBUNALS

London South Employment Tribunal on 2nd December 2021

Claimant

Jhalanath Sharma

Between

&

Respondent

Taste Nepal Ltd

Before

Judge M Aspinall (Sitting as an Employment Judge)

Appearances

The Claimant (in writing)

APPLICATION FOR RECONSIDERATION Judgment with Reasons

1. This was an application made by the Claimant for me to consider again my refusal to reconsider the judgment I reached in his claim. Put more simply, he would like me to reconsider my findings on reconsideration.
2. I held an open preliminary hearing for this case at London South Employment Tribunal on 2 December 2021 (parties via video link). At the conclusion of that hearing, I made findings of fact which determined the outcome of the claim. That being so, I gave oral judgment and distilled the same into writing with brief, summarised, reasons on the same day. That written judgment was, it transpired, electronically sent to the parties on 23 December 2021.
3. In his email of 16 March 2022, Mr Sharma states that having received my judgment on 23 December 2021, he was unable to obtain further advice from his solicitors until after the Christmas and new year period. He says that his solicitors wrote to the Tribunal on 6 January 2022 to apply for an extension of time to request reconsideration of my judgment before actually seeking that reconsideration on 13 January 2022.
4. It does not appear that such an application (to extend time to seek reconsideration) was made by - or for - the Claimant. The reconsideration application of 13 January 2022 came before me for a decision on 31 January 2022 and I issued judgment refusing that request on 1 February 2022.
5. My reasons, as set out in the reconsideration judgment of 1 February 2022, for refusing reconsideration request were simply put. The judgment from 2 December 2021 was sent to the parties (and received by them, as we now know) on 23 December 2021. Rule 71 (The Employment Tribunal Rules of Procedure 2013) ("ET Rules") provides:

71. 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...

In this case, the request was sent on 13 January 2022; 21 days after the judgment was sent to - and received by - the parties. The 14 day period, under rule 71 expired on 6 January 2022.

6. I also explained in my 1 February 2022 judgment that, even allowing for the festive period, the application was significantly out of time.
7. The Claimant has taken a further 6 weeks and 1 day to make a further application for reconsideration on the basis that his solicitors had made an application for extension of time (to make the original request for reconsideration) in a timely manner on 6 January 2022. I am bound to say that the delay of a further 6 weeks does not assist the Claimant at all. Neither, I find, does the argument that the application to extend time was made timeously - those making applications (particularly those who are legal professionals as was the case here) should not take for granted that such an application will be granted by a Judge and are not entitled to rely on the mere fact of the application as being sufficient reason for them to simply take for themselves the time that they have applied for.
8. I am not satisfied that the Claimant has - at any time during the process of bringing, pursuing or following up his claim - acted with due or proper haste and diligence:
 1. All of his claims were made out of time; I found that his employment ended on 30 June 2020 (per his admissions in writing). His valid claim was not received by the ET until 19 February 2021;
 2. Neither he, nor his solicitors, provided witness statement evidence from the Claimant to the Tribunal and he did not attend the hearing before me on 2 December 2021;
 3. His original application for reconsideration was made 7 days late - on 13 January 2022 - without explanation in that application as to why it was late;
 4. His request - which this judgment deals with - for me to reconsider again was made after a further delay of 6 weeks and 1 day.

For the avoidance of doubt, although the Claimant sent a copy of his email (16 March 2022) to his solicitors, it is not clear to me that they continue to act for him. If they do, it would be incumbent upon them to ensure that his claim was pursued properly and in accordance with the relevant timescales and rules.
9. **As a result of the foregoing, the request made by the Claimant, for me to reconsider my judgment(s) in his claim are refused** as I find that there is no reasonable prospect of either being varied or revoked.
10. Therefore, the judgment entered by me on 2 December 2021 (and received by the parties on 23 December 2021) stands.

Employment Judge M Aspinall
17 March 2022

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