



EMPLOYMENT TRIBUNALS

Claimant: Mr Godswill Abia
Respondent: ABM Facility Services UK Limited
Heard at: Watford Employment Tribunal (Open Preliminary Hearing - Video)
On: 18 July 2022
Before: Employment Judge Allen

Representation
Claimant: Mr Godswill Abia - unrepresented
Respondent: Ms Dinnes; Solicitor

UPON APPLICATION made by letter dated 3 August 2022 and a further letter dated 5 August 2022 to reconsider the judgment dated 26 July 2022 under rule 71 of the Employment Tribunals Rules of Procedure 2013

JUDGMENT ON RECONSIDERATION

Upon the Claimant's application under Rule 71 (Schedule 1, Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013) ("Rules") to reconsider the decisions:

- a. That the Respondent's Response to claim (allegations 11 and 12) be struck out.

The Judgment of the Employment Tribunal is that there is no reasonable prospect of the judgment of 26 July 2022 being varied or revoked. The claimant's reconsideration application dated 3 August 2022 is dismissed.

REASONS

1. By Rule 70 of schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 the Employment Tribunal may, either on its own initiative 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 judgment may be confirmed, varied or revoked.
2. An application for reconsideration shall be presented in writing (and copied to all of the other parties) within 14 days of the date upon which the written record was sent to the parties.
3. Under Rule 70, 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 of a judgment 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 Tribunal dealing with the question of reconsideration must seek to give effect to the overriding objective to deal with cases fairly and justly. This obligation is provided in Rule 2 of the 2013 Regulations.
5. The procedure upon a reconsideration application is for the Employment Judge that heard the case or gave the judgment in question to consider the application and determine if there are reasonable prospects of the original decision or judgment being varied or revoked. Essentially, this is a reviewing function in which the Employment Judge must consider whether there is a reasonable prospect of reconsideration in the interest of justice. There must be some basis for reconsideration. It is insufficient for an applicant to apply simply because he or she disagrees with the decision.

6. If the Employment Judge considers that there is no such reasonable prospect then the application shall be refused. Otherwise, the original decision shall be reconsidered at a subsequent reconsideration hearing. The Employment Judge's role therefore upon considering such an application is to act as a filter to determine whether there is a reasonable prospect of the Judgment being varied or revoked were the matter to be considered at a reconsideration hearing.

7. In this case, I issued a judgment on 26 July 2022 ('the judgment'). I struck out 10 of the claimant's 12 claims upon the basis that the claimant's claims numbered 1, 2, 8 and 9 were are not well founded.

8. The claimant's claims numbered 3,4,5,6,7 and 10 were provided by the claimant as context only; the claimant indicated he did not intend that the tribunal give judgment on them. In the circumstances those were withdrawn and dismissed under Rule 52 of the Rules contained in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

9. The reconsideration application was made within the prescribed time limit the judgment having been sent to the parties on 30 July 2022. The reconsideration application applies only to the Claimant's application that the Respondent's Response to claim be struck out '*for Justice sake*' (I interpret the claimant's phrase to mean 'in the interests of justice'.)
 - 9.1. In setting out his grounds the claimant asks that the Tribunal reconsider If the Respondent's:
 - i. Response to Claim (or allegation) 11 '*is true*'.
 - ii. Response to Claim (or allegation) 12 should be struck out on the grounds it is vexatious and unreasonable for '*an alternative perspective not to be presented by the Respondent*'.

Interests of Justice

10. Judgments can be reconsidered by a Tribunal on its own initiative or on the application of a party where it is necessary in the interests of justice to do so. The phrase "interests of justice" is not defined in the new rules but is likely to include instances where:
 - i. The judgment was wrongly made as a result of an administrative error.
 - ii. A party did not receive notice of the proceedings which led to the judgment.
 - iii. The judgment was made in the absence of a party.

- iv. New evidence has come to light since the conclusion of the hearing (as long as its existence could not have been reasonably known or expected at the time of the hearing).

The tribunal will not agree to reconsider the judgment just because a party disagrees with it. There must be valid reasons for a reconsideration. A Judge has power to refuse an application for a reconsideration if they think it has no reasonable prospect of success.

11. The arguments raised by the claimant in support of his application for a reconsideration and summarised at paragraph 9 are insufficient to satisfy the interests of justice criteria set out above and appear to be founded on a lack of understanding of the procedure of the employment tribunal.

12. At Paragraph 9.1.i. the claimant asks the Tribunal to reconsider if the response 'is true'. This is the function of the full merits hearing.

13. At Paragraph 9.1.ii. The claimant asks the Tribunal to reconsider if the response is vexatious. There are no grounds on which the tribunal could conclude the response is scandalous, vexatious or has no reasonable prospect of success. The respondent has denied the allegation as it is entitled to do.

14. I am able to deal with the application without the respondent's input. There is sufficient to dispose of the reconsideration application. There is no reasonable prospect of the judgment being varied or revoked.

15. It is not in the interests of justice to reconsider the judgment in the circumstances. The issues raised by the claimant will be dealt with at the full merits hearing in the usual way.

16. In the circumstances, the reconsideration application is refused.

Employment Judge Allen

Dated: 6 September 2022

Case No: 3303365/2021

JUDGMENT SENT TO THE PARTIES ON

22 September 2022

FOR THE TRIBUNAL OFFICE