



EMPLOYMENT TRIBUNALS

Claimant: Ms I Newsome

Respondent: Brake Bros Ltd

Before: Employment Judge P Cadney

Representation:

Claimant: Written Submission

Respondent: Written Submission

Reconsideration Judgment

The judgment of the tribunal is that-

- i) The claimant's application to reconsider and revoke the Judgment is dismissed.

Reasons

1. On 21st July 2022 I heard a preliminary hearing at which I determined that it was not just and equitable to extend time for the presentation of the claimant's claim; and that in consequence it was dismissed as having been presented out of time.
2. The claimant has applied for reconsideration of that decision. The basis of the application is that "*I grossly misunderstood what was required from the pre-hearing and believed I had entered into a tribunal in December so thought the claim was well within time.*" In addition she states that although the last allegation of harassment relates to the end of October 2020 that she was following "*Brake's internal processes and they were taking their time.*"
3. The first point is a difficult contention to follow, as the Preliminary Hearing was preceded by a telephone case management hearing before EJ Livesey at which

he set out that the claim was submitted on 18th June 2021 and the basis for considering that the claim may be out of time, which was one of the reasons it was listed for a preliminary hearing (paras (para 49 – 1.2). In addition the first claim (which according to the claimant's evidence before me was submitted in January 2021) had been rejected, after which the claimant entered into ACAS early consideration for the second time and submitted the second claim. The contention that the claimant believed that the first claim was still a or the live claim was not one that was advanced before me. Moreover, as is set out in my reasons the claimant's evidence was that she had little or no recollection of the events and could provide no explanation of how or why she had come to present the original claim form in the form that she did, before entering ACAS early conciliation for a second time and presenting the second claim in June 2021.

4. The second point is not one that was advanced before me at the original hearing but in any event the problem remains for the claimant that she had submitted a claim, albeit one that had been rejected, whilst the internal processes were ongoing. It must follow that the internal processes had not in and of themselves prevented her from submitting a claim.
5. Whilst the only issue in respect of an application for reconsideration is whether it is in the interests of justice, there should be finality in litigation and in this case the effect of the reconsideration application, if successful, would have to be that the judgment would be set aside and the case listed for re-hearing in order to give the claimant a second chance to present evidence that she did not submit at the first. In order for this to be considered in the interests of justice there would need to be a very powerful reason given the obvious potential injustice to the respondent of having to re-litigate the same point again. In addition the purpose of reconsideration is not simply to give the losing party a second chance to succeed having failed the first time.
6. It follows that the claimant would need to show that she could present very powerful evidence that would at least possibly result in a different outcome. The claimant does not in the application set out what this evidence is or might be. This in my judgement is particularly significant given that, as is set out in my decision, the evidence before me was that the claimant had little or no recollection of the events.
7. There is on the basis of the application and information before me nothing from which I could conclude that there is any prospect of the original decision being varied or revoked, and so in my judgement the application must be dismissed.

Employment Judge P Cadney
Dated: 10th October 2022

JUDGMENT SENT TO THE PARTIES ON
18 October 2022 By Mr J McCormick

FOR THE SECRETARY TO EMPLOYMENT TRIBUNALS