



EMPLOYMENT TRIBUNALS

Claimant: Mr. P Klicner

Respondent: Guarding UK Limited

UPON APPLICATION by the Claimant made by an email dated 16 October 2022 to reconsider the judgment sent to the parties on 14 October 2022, under rule 71 of the Employment Tribunals Rules of Procedure 2013,

JUDGMENT

The Claimant's application for reconsideration is refused on the basis that there is no reasonable prospect of the original decision being varied or revoked.

REASONS

1. The Claimant's application for reconsideration of the Judgment sent to the parties on 14 October 2022 was plainly made within the 14-day time limit set by rule 71 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 ("the Rules").
2. In accordance with rule 72(1) of the Rules, the first step is for me to consider the Claimant's application, to determine whether there is any reasonable prospect of the original decision being varied or revoked.
3. Again, in accordance with rule 72(1) of the Rules, this decision is mine alone. It would only have been had the application not been refused at this first stage that I would have consulted the other members of the Tribunal panel, Mr. Moosa and Mrs. Ray. I should make clear however, that the original Judgment to which the Claimant's application relates was a unanimous judgment of all three Tribunal members.
4. As rule 72(1) makes clear therefore, the first task is for me to decide whether there is any reasonable prospect of the original decision being varied or revoked. I have decided that there is not, for the reasons that now follow.

5. The first part of the Claimant's application states, "My claims failed mainly because I made the wrong type of claims". There is self-evidently no reasonable prospect of the original decision being varied or revoked on this basis, for the following reasons:

5.1. The Claimant is an intelligent man, with previous experience of employment tribunal litigation. Whilst there were complexities in certain elements of his complaints, he was given ample opportunity to define the complaints he wished to pursue, the list of issues having been explored at the case management stage and revisited again in detail at the start of the Final Hearing.

5.2. As was made clear when delivering oral judgment, the tribunal can only – in fact, must only – determine the case presented to it. That is what the Tribunal did. It is the only way of ensuring orderly and fair litigation.

5.3. It would of course be wholly unjust to the Respondent to now seek to decide alternative complaints, even if based on the same factual matrix.

5.4. In any event, those complaints remain undefined in the Claimant's application.

6. The second part of the application states, "I firmly believe that I am still owed other payments, such as furlough pay ...", citing a Treasury Direction dated 15 April 2020 (attached to the application) and the Coronavirus Act 2020. The Claimant goes on to say, "I expect to recover not more than £3,215; the particulars of this application are not dissimilar to the original claims".

7. There is self-evidently no reasonable prospect of the original decision being varied or revoked on this basis either, for the following reasons:

7.1. The Claimant does not indicate on what basis he says he is owed such payments.

7.2. In any event, those aspects of the Claimant's case in which he complained about the Respondent not placing him on furlough under the Coronavirus Job Retention Scheme were determined by the Tribunal as confirmed in the Judgment and explained in oral reasons. The Claimant has not put forward any basis on which the Tribunal's conclusions in these respects should be reconsidered.

7.3. If the Claimant seeks to establish an entitlement to "furlough pay" on a basis other than that argued before this Tribunal, paragraphs 5.1 to 5.3 above are repeated. A reconsideration application is not a proper basis on which to seek to present a new complaint.

8. For the reasons set out above, I see no reasonable prospect of the Tribunal changing the decision it has already reached in relation to any of the complaints.

9. The Claimant's application for reconsideration is therefore refused.

Employment Judge Faulkner
25 October 2022