



EMPLOYMENT TRIBUNALS

Claimant:
Mr M Ibe

v

Respondent:
John Lewis plc

Heard at: Reading by telephone

On: 4 July 2022

Before: Employment Judge Hawksworth

Appearances

For the Claimant: In person

For the Respondent: Mr J England (counsel)

RECONSIDERATION OF JUDGMENT (COSTS)

The claimant's application for reconsideration of the costs judgment sent to the parties on 21 July 2022 is refused under rule 72(1) of the Employment Tribunal Rules of Procedure 2013.

REASONS

Introduction

1. The hearing before me on 4 July 2022 was due to be the first day of a five day full merits hearing. It was converted to a one day preliminary hearing after the claimant failed to comply with an order to disclose his witness statement.
2. At the hearing I made a costs judgment. I ordered the claimant to pay £750 by way of contribution to the respondent's costs incurred in respect of the postponement of the full merits hearing on 4 July 2022. Reasons for the judgment were given orally at the hearing.
3. The judgment was sent to the parties on 21 July 2022. Neither party has requested written reasons.
4. On 19 July 2022 the claimant made an application for reconsideration of the costs judgment. The application was copied to the respondent's solicitor. I considered the application under rules 70 to 73 of the Employment Tribunal Rules of Procedure 2013.

The rules on reconsideration

5. Rule 70 of the Employment Tribunal Rules of Procedure 2016 says:

“A Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) 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 decision (“the original decision”) may be confirmed, varied or revoked. If it is revoked it may be taken again.”

6. The requirement that a judgment may only be reconsidered where reconsideration is necessary in the interests of justice reflects the public interest in the finality of litigation.

7. Rule 71 says that an application for reconsideration must be made in writing within 14 days of the date on which the original decision was sent to the parties. Rule 72 explains the process to be followed on an application for reconsideration under rule 71. It says:

“(1) An Employment Judge shall consider any application made under rule 71. If the Judge considers that there is no reasonable prospect of the original decision being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application shall be refused and the Tribunal shall inform the parties of the refusal. Otherwise the Tribunal shall send a notice to the parties setting a time limit for any response to the application by the other parties and seeking the views of the parties on whether the application can be determined without a hearing. The notice may set out the Judge’s provisional views on the application.

(2) If the application has not been refused under paragraph (1), the original decision shall be reconsidered at a hearing unless the Employment Judge considers, having regard to any response to the notice provided under paragraph (1), that a hearing is not necessary in the interests of justice. If the reconsideration proceeds without a hearing the parties shall be given a reasonable opportunity to make further written representations.

“(3) Where practicable, the consideration under paragraph (1) shall be by the Employment Judge who made the original decision or, as the case may be, chaired the full tribunal which made it; and any reconsideration under paragraph (2) shall be made by the Judge or, as the case may be, the full tribunal which made the original decision. Where that is not practicable, the President, Vice President or a Regional Employment Judge shall appoint another Employment Judge to deal with the application or, in the case of a decision of a full tribunal, shall either direct that the reconsideration

be by such members of the original Tribunal as remain available or reconstitute the Tribunal in whole or in part.”

Conclusions on the claimant’s application

8. The claimant’s application for reconsideration was made within the required timeframe.
9. Rule 72(1) requires me to consider whether there is any reasonable prospect of the original decision being varied or revoked. I need to decide whether there is any reasonable prospect of a conclusion that variation or revocation of the original decision is necessary in the interests of justice.
10. There must be some basis for reconsideration; the process is not an opportunity for a party to provide further evidence or to seek to reopen matters which the tribunal has determined without good reason.
11. I have carefully considered the claimant’s application and the grounds he sets out for his application, and I have concluded that there is no reasonable prospect of variation or revocation of the original decision. The grounds relied on are matters that were raised at the hearing, or which could have been raised at the hearing. The application for reconsideration does not raise any error of law, any procedural error or any other matter which would make reconsideration necessary in the interests of justice.
12. The claimant’s application for reconsideration is therefore refused under rule 72(1).

Employment Judge Hawksworth

Date: 9 November 2022

Sent to the parties on 11 November 22

For the Tribunal Office

Public access to employment tribunal decisions:

All judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.