



EMPLOYMENT TRIBUNALS

Claimant: Mr Harry Simmons

Respondent: Mr Mark Brown t/a Strongman Moustache

Heard at: Bristol (In chambers, on the papers)

Before: Employment Judge Midgley
Mrs G Mayo
Mr H Adam

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The respondent's application for reconsideration is refused because there is no reasonable prospect of the decision being varied or revoked.

REASONS

1. The respondent has applied for a reconsideration of the reserved Judgment dated 26 August 2022 which was sent to the parties on 26 August 2022 ("the Judgment") by which the respondent's application for a time preparation Order. The grounds are set out in an email dated 7 September 2022.
2. Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure 2013 ("the Rules"). Under Rule 71 an application for reconsideration under Rule 70 must be made within 14 days of the date on which the decision (or, if later, the written reasons) were sent to the parties. The application was therefore received within the relevant time limit.

3. The grounds for reconsideration are only those set out in Rule 70, namely that it is necessary in the interests of justice to do so.
4. The grounds relied upon by the respondent are these: the figures in the schedule of times he prepared in support of his application for a time preparation Order were erroneous. The errors were made because he has the condition of dyslexia; he usually has a support network to check his calculations and spreadsheets, but they were not available to help him when he prepared his schedule of costs. He was under strain due to this and connected litigation.
5. The respondent has prepared an amended schedule by which he seeks a time preparation Order for 379 hours preparation.
6. In essence, the respondent's application is not that the Judgment is wrong; he accepts that the Judgment on costs was correctly decided on the facts that were before the Tribunal. The respondent seeks by this application to change the facts and invite Tribunal to make a decision on those different facts. That is not a proper, appropriate or reasonable basis for an application for reconsideration.
7. There is an underlying public policy principle in all proceedings of a judicial nature that there should be finality in litigation. Reconsiderations are limited exceptions to the general rule that employment tribunal decisions should not be reopened and relitigated. It is not a method by which a disappointed party to proceedings can get a second bite of the cherry. In Stevenson v Golden Wonder Ltd [1977] IRLR 474, EAT, Lord McDonald said of the old review provisions that they were 'not intended to provide parties with the opportunity of a rehearing at which the same evidence can be rehearsed with different emphasis, or further evidence adduced which was available before'.
8. Accordingly, we refuse the application for reconsideration pursuant to Rule 72(1) because there is no reasonable prospect of the Judgment being varied or revoked.

Employment Judge Midgley
Dated 13 December 2022

Judgment sent to the parties: 14 December 2022

FOR THE TRIBUNAL OFFICE