



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr E C Oise

v

Spring & Co Solicitors Ltd

JUDGMENT ON APPLICATION FOR RECONSIDERATION

1. The Claimant's application dated 27 September 2022 for reconsideration of the judgment dated 14 September 2022 ("the Judgment") is refused. There are no reasonable prospects of the judgment being varied or revoked.
2. The Judgment is confirmed.

REASONS

1. By rule 70 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 ("the Rules") the Employment Tribunal may reconsider a 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 other parties) within 14 days of the date upon which the written record of the original decision was sent to the parties. This application is in time.
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 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 procedure upon a reconsideration application is for the Employment Judge that heard the case to consider the application and determine if there are reasonable prospects of the judgment being varied or revoked. This is a reviewing function in which the Judge must consider whether there is a reasonable prospect of the original decision being varied or revoked (rule 72). Reconsideration cannot be ordered simply because the applicant disagrees with the judgment.

5. If the Judge considers that there is no such reasonable prospect then the application shall be refused. Otherwise, the Judge shall send a notice to the parties setting a time limit for any response to the application by the other party and seeking the views of the parties on whether the application can be determined without a hearing (rule 72). My role, upon the considering of the application upon the papers initially, is therefore to operate as a filter to determine whether there is a reasonable prospect of the Judgment being varied or revoked were the matter to be the subject of a reconsideration hearing.
6. The Claimant's application is no more than a disagreement with the factual findings of the Tribunal. The Claimant's argument made at the hearing (and repeated in the application for reconsideration) that his refusal to recall a letter dated 23 December 2019 and apologise to the Client to whom the letter was sent, as he was instructed to do by his Supervisor, was not a fair reason for dismissal and should not be considered in attributing contributory fault in assessing remedy were fully considered. The Claimant did not dispute that he knew he had been both instructed to withdraw the offending letter and to apologise to the Client. In light of this knowledge he took the positive step to do neither, thereby refusing a direct management instruction. The application seeks to raise the issue of where the original complaint came from and various other factual disputes. Findings have been made on the factual scenario posed which I am satisfied were open to me on the evidence provided. Adequate reasons were given for rejecting the argument's advanced by the Claimant, his attempt to reargue the same in the application for reconsideration do not, in my finding, lead to a reasonable prospect of success that the Judgment should be varied/ revoked.
7. I am satisfied that I applied the law correctly and gave full reasons for the decision I reached. In my judgment, there are no reasonable prospects of the Judgment being varied or revoked. It is not necessary in the interests of justice to reconsider the Judgment. Accordingly, the Claimant's application for reconsideration fails and is dismissed.

Employment Judge G D Davison

Date: 11 December 2022

Judgment sent to the parties on

21 December 2022

For the Tribunal office