



EMPLOYMENT TRIBUNALS

Claimant: PAUL WELLER

Respondent: FIRST MTR SOUTH WESTERN TRAINS LIMITED

RECONSIDERATION DECISION

The claimant's application dated 29 December 2022 for reconsideration of my reserved judgment dated 5 December 2022 is refused.

REASONS

The Law

1. An application for reconsideration is an exception to the general principle that (subject to an appeal on a point of law) a decision of an Employment Tribunal is final. The test is whether it is necessary in the interests of justice to reconsider the judgment (rule 70).
2. Under Rule 72(1) I may refuse an application based on preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked.
3. The importance of finality was confirmed by the Court of Appeal in Ministry of Justice v Burton and anor [2016] EWCA Civ 714 where it was said:

“the discretion to act in the interests of justice is not open-ended; it should be exercised in a principled way, and the earlier case law cannot be ignored. In particular, the courts have emphasised the importance of finality (Flint v Eastern Electricity Board [1975] ICR 395) which militates against the discretion being exercised too readily; and in Lindsay v Ironsides Ray and Vials [1994] ICR 384 Mummery J held that the failure of a party's representative to draw attention to a particular argument will not generally justify granting a review.”

4. Similarly in Liddington v 2Gether NHS Foundation Trust EAT/0002/16 the Employment Appeal Tribunal said:

“a request for reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or reargue matters in a different way or by adopting points previously omitted. There is an underlying public policy principle in all judicial proceedings that there should be finality in litigation, and reconsideration applications are a limited exception to that rule. They are not a means by which to have a second bite at the cherry, nor are they intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed but with different emphasis or additional evidence that was previously available being tendered.”

Decision

5. I note that the claimant acts in person in making the reconsideration application, as he did at the main tribunal hearing.
6. The claimant’s reconsideration request invites me to reconsider my decision to reduce the Basic Award and Compensatory Award for unfair dismissal by 100%.
7. The possibility of a reduction in any unfair dismissal award by reason of conduct by the claimant which caused or contributed to his dismissal was identified and agreed at the start of the hearing as an issue for consideration at the hearing.
8. His application disputes how policy documents, the evidence and conduct on the part of the claimant himself and the respondent were interpreted and/or evaluated. These are not matters suitable for a reconsideration application.
9. I am satisfied on the basis of what is before me that there is no reasonable prospect of my original decision being varied or revoked. The application for reconsideration is therefore refused.

Employment Judge N Cox

**Date:
19 January 2023**