



EMPLOYMENT TRIBUNALS

Claimant: Miss A Smith

Respondent: Philippa Wood t/a Bambinos

JUDGMENT

The respondent's reconsideration application is refused.

REASONS

Relevant law

1. Rule 70 of the Employment Tribunal Rules of Procedure 2013 provides the tribunal with a general power to reconsider any judgment "where it is necessary in the interests of justice to do so". The making of reconsideration applications is governed by rule 71.
2. Rule 72(1) states that an employment judge must consider any application made under rule 71. The rule continues:

"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..."
3. Rule 62(3) states:

"Where reasons have been given orally, the Employment Judge shall announce that written reasons will not be provided unless they are asked for by any party at the hearing itself or by a written request presented by any party within 14 days of the sending of the written record of the decision. The written record of the decision shall repeat that information. If no such request is received, the Tribunal shall provide written reasons only if requested to do so by the Employment Appeal Tribunal or a court."
4. Rule 5 enables the tribunal to extend time limits set by the Rules.
5. Rule 2 sets out the overriding objective of enabling tribunals to deal with cases fairly and justly. Dealing with a case fairly and justly includes, so far as practicable—

- (a) ensuring that the parties are on an equal footing;
- (b) dealing with cases in ways which are proportionate to the complexity and importance of the issues;
- (c) avoiding unnecessary formality and seeking flexibility in the proceedings;
- (d) avoiding delay, so far as compatible with proper consideration of the issues; and
- (e) saving expense.

6. Tribunals must seek to achieve the overriding objective when exercising their discretion under the Rules.

Procedural history

7. At a hearing on 21 October 2022, I refused to extend the time limit for presenting the response to the claim. I permitted the respondent to participate in the hearing to a limited extent. Reasons for those decisions (“the disputed case management decisions”) were given orally at the hearing. The parties were informed that written reasons would not be provided unless a party made a request for written reasons within that time.
8. Having heard the evidence, I decided the claim in the claimant’s favour. Judgment was sent to the parties on 24 October 2022 as an attachment to an e-mail. It declared the claim to be well founded and made orders in respect of her remedy. The total sum payable by the respondent was £660.96. The judgment did not mention the disputed case management decisions.
9. The respondent’s representatives replied to the e-mail, making a written request for written reasons for “the attached judgment”.
10. In the meantime, on 7 November 2022, the tribunal sent a written case management order setting out the disputed case management decisions. The parties were informed that written reasons would not be provided for the disputed case management decisions unless a party made a request within 14 days of the record of these decisions being sent to the parties. Neither party asked for written reasons within that time.
11. Written reasons for the judgment were sent to the parties on 6 January 2023. In my reasons, I noted the fact that neither party had asked for written reasons for the disputed case management decisions.
12. On 20 January 2023, the respondent applied for reconsideration of the judgment. One ground was advanced in support of the reconsideration application. This was:
- “It is necessary in the interests of justice to reconsider the judgment for the following because it was intended that there be a request for written reasons for the complete judgment, including the case management order sent to the parties on the 24th October 2022. The writer sincerely apologises for the oversight in not attaching both decisions to the request for written reasons.”

Conclusions

13. The reconsideration application has no reasonable prospect of success. It does not put forward any reason why it is necessary in the interests of justice to

reconsider the judgment. There is nothing mentioned in the application that throws any doubt on the correctness of the judgment or the fairness of the hearing. It may be that the respondent wants me to reconsider the extent of the written reasons, but that is not the same as reconsidering the judgment.

14. The application is therefore refused under rule 72(1).
15. It appears that what the respondent is really seeking to achieve is to get written reasons for the disputed case management decisions. If the respondent's application is actually a request for written reasons, that request is refused. It is too late.
16. I have the power to extend time for requesting reasons under rule 5, but an extension of time would not help to achieve the overriding objective. It would not help to deal with the case fairly. My oral reasons for the disputed case management decisions were not digitally recorded. I have notes upon which those reasons were based, but my memory of what I said has faded. Further reasons would not help to put the parties on an equal footing. The respondent was represented by Mr Maratos, who was able to take a note of what I said. Producing further written reasons would take time which would risk causing delays in other cases. They are also not proportionate to the importance of the issues. The award was for a relatively modest sum.
17. It is open to the respondent to make a further reconsideration application, but that application would need to explain why it is necessary in the interests of justice not just to have written reasons for the disputed case management decisions, but also to reconsider the judgment.

Employment Judge Horne

27 January 2023

SENT TO THE PARTIES ON

27 January 2023

FOR THE TRIBUNAL OFFICE