



EMPLOYMENT TRIBUNALS

Claimant

Mr A Cooper

v

Respondent

Wizz Air UK Limited

Before: Employment Judge Laidler

JUDGMENT ON RECONSIDERATION

1. The decision sent to the parties on the 3 November 2022 is not one to which Rule 70 of the Employment Tribunal Regulations 2013 applies
2. The claimant has submitted no grounds for his application
3. Were it possible to reconsider it would be by the Judge who made the original decision.
4. The claimant's application is refused.

REASONS

1. By a judgment sent to the parties on the 3 November 2022 the judge granted the respondent's application under Rule 20 for an extension of time for presenting its response.
2. The Rules on reconsideration provide:

Principles

70. 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.

Application

71. Except where it is made in the course of a hearing, an application for reconsideration shall be presented in writing (and copied to all the other parties) within 14 days of the date on which

the written record, or other written communication, of the original decision was sent to the parties or within 14 days of the date that the written reasons were sent (if later) and shall set out why reconsideration of the original decision is necessary.

Process

72.—(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.

3. Rule 1 deals with interpretation and provides:

3) An order or other decision of the Tribunal is either—

(a) a “case management order”, being an order or decision of any kind in relation to the conduct of proceedings, not including the determination of any issue which would be the subject of a judgment; or

(b) a “judgment”, being a decision, made at any stage of the proceedings (but not including a decision under rule 13 or 19), which finally determines—

- (i) a claim, or part of a claim, as regards liability, remedy or costs (including preparation time and wasted costs); or
- (ii) any issue which is capable of finally disposing of any claim, or part of a claim, even if it does not necessarily do so (for example, an issue whether a claim should be struck out or a jurisdictional issue).

4. Although stated on the face of it to be a 'judgment' the decision of the 3 November 2022 was not a 'judgment' as defined in the Rule above. It did not 'finally dispose of any claim...'. It was more in the nature of a case management decision. The claim is listed for hearing on the 10 February 2023.

5. The application for reconsideration is refused.

Employment Judge Laidler

Date: 12 January 2023

Sent to the parties on: 30 January 2023

For the Tribunal Office