



EMPLOYMENT TRIBUNALS

Claimant: Mr Behrouz Ghanbari

Respondent: (1) Bassam Abdulkadir Razak
(2) New Age Laundry Limited
(3) Newage Environmental Technology Limited

JUDGMENT

The Claimant's application for Reconsideration of the Judgment dated 16 January 2023 (sent to the parties on 25 January 2023) is refused. There is no reasonable prospect of the original decision being varied or revoked.

REASONS

1. This is the third application for reconsideration made by the Claimant; he previously made two applications for reconsideration of the orders made by EJ Reed at the hearing on 1 July 2021. Both of those reconsideration applications were refused.
2. Rule 70 of the ET rules provides that a Tribunal may reconsider any judgment "*where it is necessary in the interests of justice to do so*", and that on reconsideration the decision may be confirmed, varied, or revoked.
3. The tribunal has a broad discretion on a reconsideration application. The discretion must be exercised judicially, having regard to the interests of the party seeking reconsideration, the other party, and the public interest of finality in litigation (*Outsight VB Ltd v Brown* [2015] ICR D11). There is no requirement for 'exceptional circumstances'. Reconsiderations are a limited exception to the general rule that tribunal decisions should not be reopened and relitigated; they are not a method by which a disappointed party to proceedings can get a second bite of the cherry.
4. When considering the application I kept in mind the overriding objective at rule 2 of the ET rules.
5. The Claimant has set out seven numbered paragraphs in his application for reconsideration. The application was received by the Tribunal on 4 February 2023, which is within 14 days of the judgment having been sent to the parties. I will deal with each of the seven numbered paragraphs in turn.

1. The case could have been presented better if the Claimant had a solicitor

6. As I explained to the Claimant at the start of the hearing, the tribunal is used to dealing with parties who represent themselves, particularly Claimants. I am satisfied that the Claimant had an opportunity to put forward all of the arguments and evidence he wished in support of his case. During the hearing I took steps to make sure that he was not disadvantaged, for example I frequently assisted him with phrasing questions to witnesses.
7. There is no reasonable prospect of the decision being varied or revoked on this ground.

2. Arguments that the work at the Nox hotels should have been valued at £1,500 per hotel, rather than £135 per day

8. At the hearing before me on 8-9 December 2022 the Claimant applied to amend his claim, so that he could argue that the Nox hotels work should be valued at £1,500 per hotel rather than £135 per day. This was something which had not been part of his claim until that time.
9. I refused the amendment application for the reasons set out at paragraphs 17-24 of the original judgment. There is nothing in the Claimant's reconsideration application which raises a reasonable prospect of that decision being varied or revoked.
10. The Claimant's amendment application contains arguments about why the work should have been valued differently. Those arguments do not change the fact that I refused to allow the Claimant to amend his case at the final hearing, for the reasons I explained at the time and repeated in the written decision.

3. Challenges to the finding that the Claimant did not have an accident at work (paragraphs 49-58 of the original judgment)

11. At the final hearing I had witness evidence from the Claimant regarding his alleged accident at work. This was contained in his first witness statement ([111-116] of the bundle), his supplemental statement ([159-160] of the bundle) and his comments on the Respondent's statements ([151-154] of the bundle). I also had various photographs of the steps the Claimant said he slipped on, together with a claim form completed by the Claimant's personal injury solicitors and some fit notes from the Claimant's GP.
12. I am satisfied that I had sufficient evidence to allow me to make a finding as to whether an accident occurred at work.
13. The Claimant did not say at any time that he had more evidence which he wanted to present regarding whether an accident happened.
14. In his reconsideration application the Claimant does not name any other documents he would want to provide on this point.
15. The Claimant's account in his reconsideration application is largely a repeat of evidence he provided to the tribunal at the hearing. Having considered the documents and heard from the witnesses at the hearing, I did not believe

the Claimant when he said he had had an accident at work. The points raised in the reconsideration application do not raise a reasonable prospect of that conclusion being varied or revoked.

4. Offers of settlement

16. Whether or not the Respondent made offers to settle the Claimant's claims makes no difference to my decision, particularly in circumstances where it was agreed by all parties that some money was owed for unpaid wages. There is no prospect of my original decision being varied or revoked on this ground.

5. Various complaints about Mr Razak, the site manager and record keeping

17. These are largely a repeat of arguments the Claimant made in the tribunal hearing. Anything which is new could and should have been raised at the hearing. The Claimant is attempting to have a second bite of the cherry. There is no prospect of my original decision being revoked or varied on this ground.

6. Suggestions about the cost of repairing the allegedly defective scaffold steps

18. The cost of changing the scaffold steps is not something which has any reasonable prospect of changing my decision on the issues in this case, in particular the question of whether the Claimant was dismissed for making protected disclosures or raising health and safety concerns.

7. The case would have been presented better with a solicitor; the Claimant should receive compensation for unfair dismissal or reinstatement as Mr Razak and Mr Cornel both said that he was performing well.

19. The Claimant had a relatively short time in employment. As his employment was less than two years, an unfair dismissal claim could only succeed if the Claimant proved that the main reason for dismissal was a reason prohibited by relevant law.
20. In this case the Claimant tried to prove that the dismissal was either because he raised health and safety concerns or because he made a disclosure of a risk to health and safety which was in the public interest. The Claimant failed with both of those claims. There was no other unfair dismissal claim for me to decide.
21. As there was no successful unfair dismissal claim there was no compensation for unfair dismissal. The Claimant does not have a right to compensation, or a right to get his job back, just because his employer had no concerns about the quality of his work.
22. The point regarding professional representation has already been addressed above.

Conclusions

23. Nothing in the Claimant's application gives rise to a reasonable prospect of the original decision being varied or revoked. The application for reconsideration is dismissed.

Other point raised - enforcement

24. I note that the Claimant makes a comment that he has not yet received any payment of the tribunal order. I have no power to enforce tribunal awards. There is guidance available to Claimants on the gov.uk website here: <https://www.gov.uk/employment-tribunals/if-you-win-your-case>

Employment Judge **Curtis**
Date: 07 February 2023