



EMPLOYMENT TRIBUNALS

Claimant: Mr R Elson
Respondent: New Platt Motors Ltd

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 ... the application shall be refused..."
3. Rule 64 is headed "Consent orders or judgments" and provides, relevantly:

"If the parties agree...orally at a hearing upon the terms of any ... judgment a Tribunal may, if it thinks fit, make such [a] judgment..."
4. It may be necessary to reconsider a consent judgment in the interests of justice where it appears that a party did not give valid consent to that judgment: *Larkfield of Chepstow Ltd v. Milne* [1988] ICR 1. Whether or not consent was valid is governed by the principles of the law of contract. (See, for example, *Obonyo v. Wandsworth Primary Care Trust* UKEAT/0237/07.) Under those principles, a party may be entitled in certain circumstances to avoid an agreement that would be otherwise legally binding. One of those circumstances may be economic duress: *Hennessy v. Craigmyle & Co Ltd* [1986] ICR 461.
5. Where a party is not legally represented, it may be necessary for the tribunal to take care to establish that that party's intentions are clear and that the party

understands the significance of what they are doing: *Drysdale v. Department of Transport* [2014] EWCA Civ 1083.

Procedural history

6. Judgment was sent to the parties on 9 December 2022, following a hearing before me on 1 December 2022. The respondent was represented by Mr Taylor, a mechanic, and the claimant was represented by counsel. At the hearing, the parties informed me that they consented to the judgment. I discussed the proposed order with Mr Taylor in ordinary language. He confirmed that he agreed to it.
7. By e-mail dated 23 December 2022, Mr Taylor informed the tribunal that he was “making an appeal against the judgment”. The “appeal” was on the ground that Mr Taylor was “pressured into consenting to what the claimant had requested”.
8. I treated Mr Taylor’s e-mail as an application for reconsideration of the judgment under rule 70 of the Employment Tribunal Rules of Procedure 2013.
9. Before giving preliminary consideration to the application under rule 72(1), I caused a letter to be sent to the parties on 24 January 2023. The letter set out the procedural history and then asked the respondent for further detail of the grounds on which the respondent sought reconsideration. In particular, the letter required the respondent to do the following:
“
 - (a) state what pressure was put on Mr Taylor;
 - (b) name the person who allegedly put that pressure on him;
 - (c) if the pressure consisted of something said to Mr Taylor, state what was said.”
10. The deadline for providing that information was 7 February 2023.
11. The respondent has not provided that information.

Conclusions

12. I have concluded that there is no reasonable prospect of the judgment being varied or revoked.
13. The fact that the judgment was by consent is not an insurmountable problem in itself. If the consent was not valid, neither is the judgment.
14. There may well be cases where one party puts so much pressure on the other party to settle their case that the pressurised party may be entitled to avoid the agreement on the ground of duress. The respondent’s problem here is that there is no evidence that this is one of those cases. The respondent has had an opportunity to provide further detail about the pressure that was put on Mr Taylor. That would have enabled the tribunal to know whether there was any prospect of the respondent successfully arguing that Mr Taylor’s consent was invalid. No such detail has been provided.
15. The respondent is not saying that Mr Taylor did not understand what he was doing. There is no suggestion that I misunderstood Mr Taylor when he said he agreed to the consent judgment.
16. In those circumstances the reconsideration application must be refused.

Employment Judge Horne

10 February 2023

SENT TO THE PARTIES ON

15 February 2023

FOR THE TRIBUNAL OFFICE