



EMPLOYMENT TRIBUNALS

Claimant: Mrs J Prodger
Respondent: ATN Marketing Limited
Date: 21/3/23

JUDGMENT

In exercise of powers contained in Rule 72 of the Employment Tribunals Rules of Procedure 2013 (“ET Rules”), the respondent’s application of the 10th February 2023, for reconsideration of the judgment sent to the parties on the 27th January 2023, is refused because there is no reasonable prospect of the original decision being varied or revoked.

REASONS

1. The claimant’s complaints of unfair dismissal, unlawful deduction from wages and breach of contract, were upheld by a written reserved judgment dated 24/10/22 and sent to the parties on the 27/1/23. This followed a 3-day hearing on the 24/5/22, 25/5/22 and 15/6/22, with written submissions being sent in subsequent to the hearing by the parties by the 12/8/22.
2. Rule 71 of the ET Rules requires that an application for reconsideration is made within 14 days of the written record being sent to the parties. The respondent made an application for reconsideration of the judgment on the 10/2/23. The application for reconsideration is therefore made in time.
3. Rule 72 (1) of the ET Rules provides:

“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. ...”

4. The application for reconsideration appears to be made on the following grounds:
 - a. There was evidence disallowed / missing from the bundle
 - b. The claimant's solicitors failed to provide information requested
 - c. Incorrect findings of fact were made
5. During the hearing the respondent was able to give information, ask questions and raise issues, which he did. He had the opportunity to ask questions of all witnesses and advance all relevant arguments.
6. The respondent as a litigant in person was given appropriate assistance and support throughout the hearing, and the Tribunal was careful to take steps throughout to ensure that the parties were on an equal footing in pursuance of the overriding objective. The issues between the parties had been explored at the commencement of the hearing, and are contained in the list of issues at paragraphs 13 – 17 of my reserved judgment.
7. In respect of evidence being disallowed / missing from the bundle, I refer to paragraph 10 of my reserved judgment, in relation to the 2 analysis documents attached to the 24/7/19 e mail, which were not before the tribunal in evidence, and which I disallowed to be adduced in evidence on late application. Cross examination was paused whilst the respondent was able to explain the significance of information at page 73 of the bundle, which the respondent conceded contained part of the disallowed evidence.
8. The reference to the claimant's solicitors not providing evidence is a request made on the 11/5/22 by the respondent, in respect of the claimants work activity for the previous year. I note this request was made 13 days prior to the final hearing. The respondent did not provide any time sheets, holiday logs or documentary evidence to the tribunal as part of its case. No request for an adjournment was made, or suggestion that further evidence was available from either the claimant or respondent at the final hearing. No additional evidence has been put forward as part of this reconsideration application.
9. The Tribunal gave all the issues full consideration and prepared its decision and reasons in detail. The respondent is, perhaps not surprisingly, unhappy with the outcome of the Tribunal as the decision was not in his favour.
10. The respondent seeks to challenge findings of fact that were made or the conclusions that the Tribunal reached from those findings. The application is an attempt to re-litigate what was explored in detail at the hearing. A reconsideration is potentially a route for a party to raise new matters, but only where these have subsequently come to light after the hearing and where that party can explain why the matter was not raised before. The respondent's application does not identify any new matters.

Case No: 1306313/2020

11. It is not the purpose of reconsideration to allow a party to dispute a determination that a party disagrees with and it is a fundamental requirement of litigation that there is certainty and finality. If conclusions made are disputed with regard to a whether a correct interpretation of the law was made, they are matters for an appeal which the respondent is able to make to the Employment Appeal Tribunal. These are not matters for a reconsideration request.
12. I have therefore exercised my discretion to refuse the application for reconsideration as there is no reasonable prospect of the judgment being varied or revoked. The respondent's application for a reconsideration is therefore rejected.

I confirm this judgement has been electronically signed

Employment Judge Beck

Date 21/3/23