



EMPLOYMENT TRIBUNALS

Claimant: Mr C Lee
Respondent: London 01 Shop Ltd
Before: Employment Judge Burge

RECONSIDERATION OF JUDGMENT AND JUDGMENT ON COSTS

The Claimant's application dated 16 March 2023 and the Respondent's application dated 12 March 2023 for reconsideration of the Judgment and Judgment on Costs delivered orally on 7 March 2023 and sent to the parties on 15 March 2023 are both refused.

REASONS

1. Rule 72(1) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 (the "Rules") enable an Employment Judge to refuse an application for reconsideration if they consider that there is no reasonable prospect of the original decision being varied or revoked. The test is whether it is necessary in the interests of justice to reconsider the judgment (Rule 70).
2. Preliminary consideration under Rule 72(1) must be conducted in accordance with the overriding objective which appears in Rule 2, namely that cases should be dealt with fairly and justly. This includes dealing with cases in ways which are proportionate to the complexity and importance of the issues, and avoiding delay.
3. The Claimant was ordered to provide his documents and did not do so, despite the Respondent chasing him for them and despite him confirming to the Tribunal that he had done so. On the day of the hearing the Tribunal decided it was in the interests of justice for the hearing to take place and allowed him to provide some documents that the Respondent had seen before. Both parties were

allowed to give oral evidence based on the claim and response they had entered. The Tribunal reached a decision and that decision was communicated orally to the parties at the end of the hearing on 7 March 2023.

4. The Respondent's application for reconsideration of the decision to allow the hearing to proceed despite the Claimant's non compliance is refused. The decision was in accordance with the overriding objective in avoiding unnecessary formality, seeking flexibility in the proceedings, dealing with cases in ways which are proportionate to the complexity and importance of the issues, dealing with cases fairly and justly and avoiding delay. It is not in the interests of justice for the decision to be reconsidered. There is no reasonable prospect of the original decision being varied or revoked.

5. The Claimant's further documents sent with his application for reconsideration are not accepted as it is not in accordance with the overriding objective, dealing with the case fairly and justly, for the Order for disclosure to be varied to a date after the hearing. Achieving finality in litigation is part of a fair and just process.

6. The Respondent seeks 44 hours rather than 10 hours costs for the Preparation Time Order. The Claimant seeks costs for the time he has now put into the claim. As explained at the hearing, parties are expected to spend time preparing the claim for hearing, whether they are claimants or respondents. The Preparation Time Order was granted because of the Claimant's unreasonable conduct in not providing his disclosure to the Respondent, not communicating with the Respondent in the preparation of the bundle and confirming to the Tribunal that he had done so, which was untrue. The Tribunal decided that this unreasonable conduct increased the amount of time that the Respondent had to spend preparing for this case by 10 hours and so that is what was awarded. It is not in the interests of justice for the decision to be reconsidered. There is no reasonable prospect of the original decision being varied or revoked.

7. The rest of the Claimant's and the Respondent's application seek to re-argue the issues that were considered at the Hearing and subsequently decided upon. Achieving finality in litigation is part of a fair and just process. It is not in the interests of justice for the decisions to be reconsidered. There is no reasonable prospect of the original decisions being varied or revoked.

Employment Judge Burge
Date: 17 March 2023

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