



EMPLOYMENT TRIBUNALS

Claimant: Mrs K Simmons

Respondent: RJ Simmons Agricultural Services Ltd

DECISION ON RECONSIDERATION

The Claimant's application dated 8th April 2023 for a reconsideration of the judgment dated 17th February 2023 is refused under Rule 72 of the Employment Tribunals Rules of Procedure 2013.

REASONS

1. The Claimant applied for a reconsideration of the Tribunal's judgment dated 17th February 2023 by way of email dated 8th April 2023.
2. The provisions relating to reconsiderations are contained within Rules 70 to 73 of the Employment Tribunals Rules of Procedure 2013.
3. Under Rule 72 if the Judge considers that there is no reasonable prospect of the original decision being varied or revoked the application shall be refused and the Tribunal shall inform the parties of the refusal.
4. In **Liddington v 2Gether NHS Foundation Trust UKEAT/0002/16** Simler P held:

"..a request for reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or to reargue matters in a different way or adopting points previously omitted. There is an underlying public policy principle in all judicial proceedings that there should be finality in litigation, and reconsideration applications are a limited exception to that rule. They are not a means by which to have a second bite at the cherry, nor are they intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed but with different emphasis or additional evidence that was previously available being tendered. Tribunals have a wide discretion whether or not to order reconsideration, and the opportunity for appellate intervention in relation to a refusal to order reconsideration is accordingly limited.

[35] Where, as here, a matter has been fully ventilated and properly argued, and in the absence of any identifiable administrative error or event occurring after the hearing that requires a reconsideration in the interests of justice, any asserted error of law is to be corrected on appeal and not through the back door by way of a reconsideration application. It seems to me that the Judge was entitled to conclude that reconsideration would not result in a variation or revocation of the decision in this case and that the Judge did not make any error of law in refusing.”

5. There is no reasonable prospect of the judgment being varied or revoked and therefore the application is refused.
6. The Claimant’s application refers to a number of legal provisions which are not applicable or relevant to the matters that fell for determination at the hearing, namely whether the Claimant’s claims for unlawful deductions from wages and discrimination had been brought within the relevant time limits and whether time should be extended. The Claimant has cited the **Limitation Act 1980** but this has no direct relevance. The Act was only relied upon in **British Coal Corporation v Keeble [1997] IRLR 336 EAT** as containing factors that the Tribunal may wish to rely on in exercising its just and equitable discretion under s.123 Equality Act 2010. The Claimant also cited the **Human Rights Act 1998** and the **Modern Slavery Act 2015** but these are also not of direct relevance. The Claimant has made reference to personal injury in her reconsideration application but the Tribunal does not have jurisdiction to entertain free-standing claims for personal injury.
7. The Tribunal found that the claims were presented significantly outside the time limits. It had regard to all the evidence that was relevant to its discretion as to whether it was just and equitable to extend time at the time of the hearing (for the discrimination claims) and had regard to the evidence that was presented to it. In addition it had regard to the evidence as to whether it was reasonably practicable for the Claimant to have presented her claim in time (for the unlawful deductions from wages claim) and made findings that were open to it from the evidence presented.
8. The Tribunal made its decision on the evidence presented to it in accordance with the relevant legal principles and there is no reasonable prospect of the decision being varied. Insofar as the Claimant wishes to re-present her claim in a different way, there is no prospect of her doing this as the matter has been determined and justice requires finality.

Employment Judge A Frazer

Date 19th June 2023

RECONSIDERATION SENT TO THE PARTIES ON

22 June 2023

FOR THE SECRETARY TO EMPLOYMENT TRIBUNALS