



EMPLOYMENT TRIBUNALS

Claimant: Mrs T Knowles

Respondent: Hallam24 Healthcare Limited

HELD in Sheffield

ON: 15 June 2023

BEFORE: Employment Judge Brain

RECONSIDERATION JUDGMENT

The Judgment of the Employment Tribunal is that the respondent's reconsideration application fails and stands dismissed.

REASONS

1. By Rule 70 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 the Employment Tribunal may, either on its own initiative or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration, the judgment may be confirmed, varied or revoked.
2. An application for reconsideration shall be presented in writing (and copied to all of the other parties) within 14 days of the date upon which the written judgment is sent to the parties.
3. Under Rule 70, a judgment will only be reconsidered where it is in the interests of justice to do so. This allows an Employment Tribunal a broad discretion to determine whether reconsideration of a judgment is appropriate in the circumstances. The discretion must be exercised judicially. This means having regard not only to the interests of the party seeking the reconsideration but also the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.
4. The procedure upon a reconsideration application is for the Employment Judge that heard the case to consider the application and determine if there are reasonable prospects of the original decision or judgment being varied or revoked. Essentially this is a reviewing function in which the Employment Judge must consider whether there is a reasonable prospect of reconsideration in the interests of justice. There must be some basis for reconsideration. It is insufficient for an applicant to apply simply because they disagree with the decision.

5. If the Employment Judge considers that it can be said that there is no such reasonable prospect, then the application shall be refused. Otherwise, the original decision shall be reconsidered at a subsequent reconsideration hearing. The Employment Judge's role therefore upon considering an application when it is received is to act as a filter to determine whether there is a reasonable prospect of the judgment being varied or revoked were the matter to be listed for a reconsideration hearing.
6. In this case, the claimant presented her claim form on 23 January 2023. Her claim was that the respondent had made an unauthorised deduction from her wages. She claimed compensation for untaken holiday entitlement. Further, she claimed that the respondent was in breach of contract as they had failed to pay to her pension provider monies deducted from her wages by way of pension contributions.
7. On 9 February 2023 the Employment Tribunal sent the claimant's claim form to the respondent along with notice that a claim had been lodged and that a hearing of the case would take place on 19 April 2023 by way of a video hearing. The notice of the claim informed the respondent that should they wish to defend the claim then a response form must be submitted to the Employment by 9 March 2023.
8. The respondent failed to present a response to the claim. Accordingly, on 3 April 2023 a letter was sent by the Employment Tribunal to the respondent notifying them of that fact and that they were entitled to participate in the hearing to the extent permitted by the Employment Judge who hears the case.
9. The hearing proceeded by video as listed on 19 April 2023. The claimant attended. There was no appearance by or representation on behalf of the respondent.
10. The claimant informed the Tribunal that the breach of contract issue had been resolved as the respondent had paid to her the sum of £1041.34 on 11 April 2023. The claimant was content to accept this sum in settlement of the breach of contract claim in respect of the pension contributions. However, that left the issue of the unauthorised deduction from wages and compensation for untaken holiday entitlement.
11. Judgment was awarded in the claimant's favour in the sum of £1370.38 gross for those two items. The Tribunal ordered this sum to be paid to the claimant on or before 5 May 2023.
12. On 11 May 2023 the claimant wrote to the Employment Tribunal to notify that the respondent had paid the sums due.
13. On 25 May 2023 the respondent emailed the Employment Tribunal. The respondents applied for reconsideration of the judgment of 19 April 2023.
14. The reconsideration application has not been copied to the claimant. However, the Tribunal has the power to waive non-compliance with any provision of the rules of procedure. The Tribunal does so in this case, there being no prejudice to the claimant in her having not been copied into the reconsideration application. This is because the Tribunal can deal with it without the claimant's input.
15. The reconsideration application was made within the time prescribed by Rule 71. This provides that an application for reconsideration shall be presented in writing within 14 days of the date on which the written record is sent to the parties. The

written record was sent to the parties on 11 May 2023. In computing the 14 days' time limit that day is discounted. It follows therefore that the reconsideration application was lodged in time and may be considered.

16. The basis of the application is that:
 - 16.1. The parties were in negotiations to resolve the matter.
 - 16.2. The claimant was paid the sum of £1041.34 on 11 April 2023.
 - 16.3. A balancing payment of £1320.96 was paid on 25 April 2023.
17. The respondent then goes on to say that, "*Both parties were satisfied and agreed that the matter would be settled out of court. Regrettably, when the claimant attended to notify the court of this, it had already gone to court. The claimant has assured us they have emailed the Tribunal but we are not sure if this has been noted.*"
18. The respondent is right to say that the claimant has notified the Tribunal that the matter is resolved. As has been said, this notification was made by her on 11 May 2023.
19. When the matter came before the Tribunal on 19 April 2023, there was no suggestion by the claimant that there had been resolution of the unauthorised deduction and holiday pay claim. In contrast, she notified the Tribunal that the breach of contract claim around the pension contributions had been settled. It follows therefore that the issues of the unauthorised deduction from wages and holiday pay claims were still live as at 19 April 2023. The respondent had made unauthorised deductions from the claimant's wages and had not paid her compensation in respect of her holiday entitlement. That being the case, judgment was properly entered in the claimant's favour for these items.
20. Further, the respondent chose not to respond to the claimant's claim and chose not to attend the hearing on 19 April 2023. Had they done so, then representations may have been made that they were prepared to settle the wages and holiday pay claims. Were the claimant to have been agreeable to this, it is possible that the Tribunal may then have agreed to adjourn the matter to enable settlement to be reached following which the claimant could then have withdrawn the complaint following payment.
21. As it is, the claimant's complaint remained live on 19 April 2023. The respondent had made unauthorised deductions from her wages and was liable to pay her compensation for untaken holidays. Judgment was properly entered in her favour.
22. There is, therefore, no basis for the revocation of a variation of the judgment of 19 April 2023. It was properly entered. It can be said that there is no reasonable prospect of it being varied or revoked.
23. Accordingly, the application for reconsideration is refused.

Employment Judge Brain

Date: 19 June 2023.