



EMPLOYMENT TRIBUNALS

Claimant: Mr B.J.J.S.K Platt

Respondent: FDS Recruitment Ltd

JUDGMENT

The respondent's application dated 8 June 2023 for reconsideration of the judgment dated 28 March 2023 and written reasons dated 21 May 2023 is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because:

1. There is a clear dispute of facts between the parties and little or no reliable contemporaneous evidence available to support or refute any of the allegations each party has made. It is therefore not appropriate for reconsideration to take place on the basis of written submissions. Any reconsideration would have to be done at a hearing.
2. A hearing has already taken place in this matter, on 28 March 2023, and the respondent did not attend. The respondent did not make any application to postpone the hearing in advance. They did not inform the Tribunal that they would not attend and did not respond to attempts to contact them on the morning of the hearing. Tribunal time and resources were made available on 28 March 2023 for the parties to make submissions and provide evidence. The claimant availed himself of that opportunity. The respondent did not. Further Tribunal time and resources were used on the morning in trying to contact them.
3. No reason is provided to the Tribunal in the respondent's reconsideration application as to why the respondent did not attend the hearing.
4. The respondent has been represented by a firm of solicitors throughout these proceedings who, it is assumed, will have advised the respondent of the risks involved in failing to attend the listed hearing, including that a Tribunal may proceed in their absence and find in favour of the claimant. It is also assumed that the respondent's solicitors will have warned the respondent that the Tribunal can place only very limited weight on allegations that have not been

subject to testing under cross-examination at a hearing, in cases where there are disputes of fact.

5. The parties are entitled to finality in litigation in the interests of justice (*Ebury Partners Ltd v Acton Davis* 2023 EAT 40). Reconsideration is not a second opportunity for a party to put their case, having without good reason failed to avail themselves of the opportunity already provided. A rehearing of the matter is not a reasonable use of Tribunal resources or the claimant's time in the circumstances.
6. The respondent has provided four electronic payslips and further pleadings along with the request for reconsideration of the claimant's claim. Those payslips are not, of themselves, evidence that those sums have actually been paid to the claimant.
7. The Tribunal notes that the pleadings suggest that the sums awarded to the claimant in the judgment are incorrect but the respondent does not appear to take into account the fact that the sums in the Tribunal judgment are awarded gross of tax and are to be paid to the claimant subject to appropriate deductions for tax and National Insurance. The judgment and reasons make clear that the sums are based on the claimant's gross annual salary of £45,000.
8. The Tribunal did not have sight of an email from the respondent's representatives, a firm of solicitors, relating to the financial quantification of the respondent's counterclaim at the time of the hearing due to an administrative oversight. This information was not contained in the response to the claim and was requested by the Tribunal on 2 September 2022, requested again on 16 September 2022 and again on 11 November 2022. A set of narrative particulars was received on 23 September 2022 from the respondent's solicitors, but this did not quantify the claim. An email with quantified sums was sent by the respondent's solicitors on 11 November 2022. This has been read and considered in connection with the respondent's reconsideration application dated 8 June 2023.
9. However, the Tribunal is not able to place any weight on the information in the email of 11 November 2022. No contemporaneous documents have been provided to substantiate the allegations against the claimant in the counterclaim. No sworn evidence has been made available to the Tribunal and tested under cross-examination.
10. The reconsideration is refused as it is not in the interests of justice for the original decision, both on the claim and the counterclaim, to be varied or revoked. The original decisions remain binding on the parties and the sums awarded remain payable to the claimant, subject to any appropriate deductions as described above.

Employment Judge Barker
Date: 09 June 2023