



EMPLOYMENT TRIBUNALS

Claimant: Mr M Gregory

Respondent: Kronospan Ltd (R1)
Kronoplus Ltd (R2)

AT: Wrexham by CVP **on:** 20th July 2023

BEFORE: Employment Judge T. Vincent Ryan

REPRESENTATION:

Claimant: Written application for reconsideration

Respondent: Written response to the claimant's application

DECISION

On Reconsideration Application

The claimant's applications (emails of 28 June 2023 timed at 11:10 and 4 July 2023 timed at 18:44) for reconsideration of the judgment of the Tribunal signed on 19th June 2023 and sent to the parties on 20th June 2023 ("the judgment") is refused.

REASONS

The Issue:

1. The issue is whether there is any reasonable prospect of the judgment being varied or revoked in accordance with the overriding objective of the Tribunal.

Consideration of the application:

2. The claimant has written to the Tribunal, as referred to above, requesting reconsideration of the judgment. I have read his applications.
3. I have also read the respondent's emailed response of 4 July 2023 timed at 12:43.

4. I have also re-read:
 - 4.1. the judgment
 - 4.2. the minutes of the case management preliminary hearing held on 19 June 2023; I confirm that these minutes, the judgment, and the administrative record, were written up immediately following the hearing and were signed by 14:25 that day, the hearing having ended at 10:50 that day.
 - 4.3. my notes taken during that hearing.
5. I have a clear recollection of this hearing, not least because of the discussion held with the claimant about the amount of litigation that is ongoing and his experience as a litigant in person at the Employment Tribunal.
6. The minutes of the case management preliminary hearing reflect the discussion held with him about his need for further advice and assistance, and I consider that they also reflect the care and attention that I took at the time. Mr Gregory has a working knowledge of employment law. He is experienced at the Tribunal. His knowledge and experience far exceeds that of many litigants in person who appear before me, such that I was content and remain content, that he fully understood the explanations given to him and the effect of withdrawal of claims. He was not lead or rushed. His decision was deliberate and following reflection.
7. Before the claimant withdrew his claims as confirmed in the judgment, I explained to him, as is my general practice, that if he confirmed withdrawal the claims would be dismissed. I gave him an opportunity to consider his position in respect of the withdrawn claims. I did not lead him to withdraw any claims. I made it clear to him, as is my general practice, that the decision was his and he could have further time to think about it if he wished.
8. Before asking him to confirm whether he wished to withdraw or pursue those claims we discussed them.
9. With regard to the wrongful dismissal claim he confirmed at the hearing, as he does in his email of 4 July 2023, that he was paid in lieu of notice and accepted that payment. On that basis he withdrew the claim that the respondent dismissed him without notice, the wrongful dismissal claim. In the claimant's email of 28 June 2023 where he says that he wishes to pursue the wrongful dismissal claim he sets out circumstances that would be relevant to an Unfair Dismissal claim.
10. With regard to the health and safety claim, the claimant confirmed that he had been a health and safety representative for GMB previously and even considered himself to be one still, but that he was not designated to carry out activities in connection with preventing reducing risks to health and safety at work with the respondents, and he was not a representative of workers on matters of health and safety at work or a member of a safety committee. In his application the claimant has said that he was required to report health and safety issues as part of the general contractual terms and conditions; this is not the same as being in a category of health and safety active employee covered by section 44 (1) (a) and (b) Employment Rights Act 1996, as he alleges in his application. He has produced a certificate from GMB dated September 2020 and confirmation of his

being a workplace representative at Kingspan dated 27 February 2017. The claim does not relate to his employment with Kingspan. The employment in question was from 13 June 2022 to 15 September 2022.

11. Following a discussion and explanation, the claimant deliberately and unequivocally withdrew the claims referred to in the judgment. I am satisfied that he did so knowing that this would lead to dismissal of those claims as I explained that this was the consequence and he confirmed he understood.

The Law:

12. The rules in connection with reconsideration of judgments are set out at rules 70 – 73 ETs (Constitution and Rules of Procedure) Regulations 2013.
13. Upon an application for reconsideration the judge shall consider the application. 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. In other circumstances there may be a hearing.
14. Rule 51 states that where a claimant informs the Tribunal, either in writing or in the course of a hearing, that a claim, or part of it, is withdrawn, the claim, or part, comes to an end (subject to any application the respondent may make for a costs, preparation time or wasted costs order).
15. Rule 52 provides that where a claim or part of it has been withdrawn as above the Tribunal “shall” issue a judgment dismissing it. This means that a claimant may not commence a further claim against the respondent raising the same, or substantially the same, complaint unless the claimant has expressed at the time of withdrawal a wish to reserve the right to bring a further claim and the Tribunal is satisfied that there would be a legitimate reason for doing so, or the Tribunal believes that to issue such a judgment would not be in the interests of justice.
16. Rule 2 sets out the overriding objective of the Tribunal namely to deal with cases fairly and justly by, amongst other things, reference to the factors listed.

Decision:

17. I do not consider that the claimant has a reasonable prospect of having the judgement varied or revoked.
18. The situation was clear to the claimant. He wilfully and with knowledge withdrew his claims. The parties to litigation are entitled to certainty, and I consider that it would be unjust and unfair to allow the claimant to re-litigate the withdrawn claims for all the reasons stated above and following a fair application of the applicable Rules referred to above.

Employment Judge T.V. Ryan
Date: 20 July 2023

Case Number: 1600325/2023

JUDGMENT SENT TO THE PARTIES ON 21 July 2023

FOR THE TRIBUNAL OFFICE Mr N Roche 2023