



EMPLOYMENT TRIBUNALS

Claimants: (1) Mr A Thomas
(2) Mr C Thomas

Respondent: WJ Roadmarkings North Ltd

Venue: Leeds **On:** 17 August 2023

Before: Employment Judge T Knowles

JUDGMENT UPON APPLICATIONS FOR RECONSIDERATION

The First Claimant's application dated 30 July 2023 and the Second Claimant's application dated 2 August 2023 for reconsideration of the Judgment dated 4 July 2023 and sent to the parties on 19 July 2023 are not well founded and are refused.

REASONS

The Application

1. The applications for reconsideration were made in time.
2. The First Claimant's grounds for reconsideration, set out in the application dated 30 July 2023, are as follows:

I Anthony John Thomas would like to appeal against the decision that was made against my court hearing.

*Issue 1. It is alleged i have made a claim for unfair dismissal only.
I have also claimed for being contacted by my manager whilst on annual leave (on my honeymoon) i want to claim for the full refund of my honeymoon that was spoilt*

through receiving a txt message from my manager Loren Jackson advising me to resign.

Evidence number 10. Evidence they have gave was the truth. Again this was false evidence from colin blanchard and loren jackson.

Evidence 20.

Yes we admitted taking the wagon 4.2 mile away from the works we was issued that night. As stated in the hearing its just same as going to Colin blanchards inlaws to do private works for Colin Blanchard who at the time he told us to go to that destination was only a supervisor so did not issue the works. Therefore we had no permission from the manager so that would be gross misconduct aswel.

Evidence 33. False information again. There was no contact to roy waterhouse kitchen and bathroom from WJ. (Adam waterhouse is an old friend from school so I've recently contacted adam to see why he or anyone at roy waterhouse kitchen and bathroom refused to talk to WJ, Adam spoke to his dad Roy Waterhouse the owner of the shop to ask him why he refused to talk to WJ and stated that neither himself or Adam waterhouse had received any phone calls from WJ or anyone from WJ had gone to their shop. False information from colin blanchard and loren jackson.

Im struggling to understand why craig thomas would admit to doing these works when i know we did not do the works.

The length of time of us being onsite approximately 20 mins seeing how they wanted the carpark doing. Myself then ringing Loren Jackson, (proof of phone call) to then being onsite for another 25 minutes approximately.

How is this possible doing a carpark in wet conditions enough time to doing the works we have been accused of doing. This is not possible.

The lack of minutes at the disciplinary hearing of me asking to see the witness statement which was not shown until my contract was terminated was a false statement provided by a partner of Melissa chance. Statement finally received after contract was terminated not even signed until 6 months after the accusations. False statement as this was actually Melissa Chance that passed by the job as i was trying to contact loren jackson.

Id like to appeal the decision that was made after my court hearing as i know it's the wrong decision made. I swore to tell the truth, The whole truth and that is what I presented.

I feel I've been really let down here towards my claim for unfair dismissal and claiming for my honeymoon that was ruined.

3. I add here the additional points made by the Second Claimant, where they are not a repetition of the First Claimant's application (they appear to a degree to be copies of one another.

4. The Second complainant states the following concerning paragraph 1 in my reserved reasons in his application:

“I feel the process of the tribunal evidence given by WJ North was not a true account of events and accusations of taking company vehicle without consent was not true as we was on shift that evening and did have permissions to drive the company vehicle as we did on every occasion. My main point of all this is that the company WJ north limited removed us of our duties on the grounds of doing unauthorised works which was not true and i feel this was 3 inside manoeuvre to oust us from our job roles at WJ hence the insufficient witness statements made by a member of the office, not at any point did we carry out unauthorised works and within the evidence there is a clear written statement from the landowner which was not considered as very important evidence to support our case.”

5. The Second Claimant also refers me again to the telephone call he had with Mr Blanchard after they spoke following his shift on 27 September 2022 and tells me that Mr Blanchard abused him and acted in an unacceptable and unprofessional manner.

The Law

6. Rule 70 of Schedule 1 to the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013 sets out the right to apply for reconsideration. Rule 71 deals with the time in which an application should be made and how. Rule 72 deals with procedural matters concerning disposal.

7. There is only one ground for reconsideration in the rules which is where reconsideration is necessary in the interests of justice.

8. I must seek to give effect to the overriding objective to deal with cases ‘fairly and justly’ under Rule 2 which includes ensuring that the parties are on an equal footing; dealing with cases in ways which are proportionate to the complexity and importance of the issues avoiding unnecessary formality and seeking flexibility in the proceedings; avoiding delay, so far as compatible with proper consideration of the issues; and saving expense.

9. In ***Stevenson v Golden Wonder Ltd 1977 IRLR 474, EAT***, Lord McDonald said of the old review provisions that they were ‘not intended to provide parties with the opportunity of a rehearing at which the same evidence can be rehearsed with different emphasis, or further evidence adduced which was available before’.

10. There must be finality in proceedings and the reconsideration process should not generally be used to gain a “second bite at the cherry” (***Todd t/a Hygia Professional Training v Cutter UKEAT/0063/07***).

Conclusions

11. References in this Judgment to paragraphs are to paragraphs in my reserved reasons of 4 July 2023, sent to the parties 19 July 2023. I understand these to cross refer to the “issues” and “evidence” numbers set out in the First Claimant’s application.

12. Paragraph 1 - Whilst the First Claimant set out a claim for a refund of his honeymoon costs this claim is not within my jurisdiction. Had he succeeded in his

claim for unfair dismissal (the only claim he brought which was within my jurisdiction) then the losses arising from that unfair dismissal would have been considered. However, the claim of unfair dismissal did not succeed.

13. Whilst the Second Claimant disputes that he took the vehicle without permission in his application, at the hearing on 4 July 2023 he admitted doing so and that this alone was gross misconduct (see paragraph 42 in my reserved reasons). I dealt with the letter from the landowner at paragraph 39 in my reserved reasons.

14. Paragraph 10 – in my reserved reasons I simply set out that all witnesses affirmed that their evidence would be the truth.

15. Paragraph 33 – The Claimants clearly did contact Messrs Waterhouse and I dealt with that at paragraph 3 of my reserved reasons. I needed to balance such evidence with that provided by the Respondent's witnesses, whose evidence generally I preferred to that given by the Claimants.

16. The applications go on to refer to the admission by the Second Claimant that they did the works. I considered the evidence on that during the hearing and the Claimants are adding nothing new in their applications. I dealt with the issue at paragraphs 24 -26 in my reserved reasons.

17. The First Claimant's application refers to the length of time spent at the site in question. The evidence before me was that they were at the site for 40 minutes. I dealt with the reasonableness of the Respondent's conclusion concerning the misconduct at paragraphs 62-69.

18. The Second Claimant refers me again to his conversation with Mr Blanchard which he recorded. I took that into account and it is referred to in paragraph 26 of my reserved reasons.

19. The applications refer to the lack of minutes at the disciplinary hearing but again adds nothing new to the matters I considered at the hearing. I dealt with those issues at paragraphs 31 and 76-78 in my reserved reasons.

20. Taking into account the grounds of the applications for reconsideration and considering them in the round with the comments above, my conclusion is that the Claimants have had a fair opportunity to address the Tribunal on any points of substance at the last hearing.

21. In my conclusion the Claimants simply disagree with my decision and seek to go over the same matters again or add further evidence which could have been adduced on 4 July 2023.

22. There is no reasonable prospect of the original decision being varied or revoked for those reasons.

23. It would not be in the interests of justice to revoke my decision.

**Case No: 1801361/2023
1801362/2023
1802707/2023**

Employment Judge Knowles

17 August 2023