



EMPLOYMENT TRIBUNALS

Claimant: Cree Odimah-Webster
Respondent: Goma Limited T/A Caia

JUDGMENT

The claimant's application dated 12 August 2023 for reconsideration of the judgment sent to the parties on 27 July 2023 is refused.

REASONS

1. Rule 70 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 provides that an 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 must be presented in writing (and copied to all the other parties) within 14 days of the date on which the written record of the original decision was sent to the parties: rule 71. In this case Reserved Judgment with Reasons was sent to the parties on 28 July 2023. The last day on which an application for reconsideration could be made within the rule 71 time limit was therefore 11 August 2023.
3. The claimant applied for reconsideration in an email sent to the tribunal at 00:07 on 12 August 2023. Her email contained 15 numbered points and was three and a half pages long. She later sent a further version of her email at 03:47 on 12 August 2023. This email contained 21 numbered points and its heading asked for this version to be considered, as the previous version was incorrect.
4. The first email arrived 7 minutes after the rule 71 time limit expired. However it appears from the timing of her first email that the claimant was

aware of and attempting to comply with the rule 71 time limit. Neither email appears to have been copied to the respondent. However having read the application for reconsideration I consider that it is in the interests of justice to extend time for the application for reconsideration to be made, and to dispense the requirement for the application to be copied to the other party.

5. Under rule 70, a judgment will only be reconsidered where it is necessary in the interests of justice to do so. This allows a 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 to the interests of the other party to the litigation and to the public interest in there being, so far as possible, finality in litigation. Reconsideration is not a means by which a disappointed party to proceedings can get a second bite of the cherry.
6. The procedure upon a reconsideration application is for the Employment Judge who heard the case to consider the application and determine if there are reasonable prospects of the judgment being varied or revoked. There must be some basis for reconsideration. It is not sufficient that a claimant disagrees with the decision. If I consider that there is no reasonable prospect of the judgment being varied or revoked, then the application must be refused: rule 72.
7. I have considered the various points made by the claimant but consider that to a very large extent she is attempting to reargue the case heard on 27 and 28 June 2023.
8. Having reread the Judgment with Reasons sent to the parties on 28 July 2023 I see that the Reasons contain two typographical errors. The claimant's employment began on 28 March 2022 (as stated in paragraph 16 of the reasons) and she was dismissed by way of a letter sent on 14 June 2022 (as stated in paragraph 25). She was invited to a probationary meeting on 13 June 2022 and that meeting took place on 14 June 2022. The references to 2023 in paragraphs 24 and 25 are typographical errors, for which I am sorry.
9. It was nevertheless clear that the claimant did not have the necessary two years' service to bring a claim for 'ordinary' unfair dismissal, and that her claim was for automatically unfair dismissal. The issue to be determined was therefore whether the reason for her dismissal was that she had asserted her statutory rights to written particulars of employment and to payslips. For the reasons given I was satisfied that her asserting her statutory rights was not the reason for her dismissal. There is no reasonable prospect of the original decision being varied or revoked because of the claimant's view (expressed in her application for reconsideration) that her sending the email of 9 June 2022 did not warrant her dismissal and that her dismissal for this reason was disproportionate.
10. One reason that the claimant gives for seeking a reconsideration is that she was directed to provide false information on a Coutts application. She says (at numbered point 10) that this is incorrectly described in the Reasons as a mere "flight change".

11. The claimant argued that the real reason for her dismissal was not that she attempted to send an untruthful email to a contractor criticising Mr Vir during her probationary period. She argued that she had previously been asked to be untruthful by Mrs Vir, and I address this in paragraph 32 of the Reasons. However she also argued that she had also been asked to be untruthful by Mr Vir, and this was not addressed in the Reasons.
12. The claimant's oral evidence was that Mr Vir asked her to fill in a Coutt's credit card form for him and that he asked her to say his income was £20,000. The respondent provided evidence, namely a letter from his accountant, that his income greatly exceeds £20,000. When it was put to the claimant in cross-examination that the accountant's letter verified that filling in the form to say Mr Vir had an income of £20,000 was not a lie, the claimant answered "correct". My thinking at the time that I decided that the claim of automatic unfair dismissal fails and should be dismissed was that the evidence did not show that the claimant had been asked to lie to or mislead Mr Vir's bank, and indeed that the claimant had accepted this when cross-examined. My view was that the claimant's being asked to fill in the form to say that Mr Vir's income was £20,000 therefore could not undermine the respondent's argument (which I accepted) that the claimant was dismissed for being willing to criticise and be untruthful about her manager in writing to a contractor. I therefore consider that there is no reasonable prospect of the original decision being varied or revoked because of a supposed failure to consider the claimant's evidence relating to the Coutt's form.
13. Having read and considered the claimant's application for reconsideration, I consider that there is no reasonable prospect of the original decision being varied or revoked. The application for reconsideration is therefore refused.

Employment Judge Andrew Jack

14 September 2023

JUDGMENT SENT TO THE PARTIES ON

14/09/2023

FOR THE TRIBUNAL OFFICE