



EMPLOYMENT TRIBUNALS

London South Employment Tribunal

Claimant: Prince Maduabuchukwu Ojiaku

Respondent: ABM Facility Services UK Ltd

Application for reconsideration

DECISION

For the reasons which follow, I refuse the application for reconsideration of my decision of 21 June 2023 as I do not find that there is any reasonable prospect of that decision being varied or revoked.

Background

1. The Claimant brings a further application dated 15 September 2023 seeking reconsideration of my decision made on 21 June 2023 to strike out his claim and award costs against him.

The new application

2. The Claimant states that after the hearing on 21 June 2023 he realised his representative, Mr Ukwuoma, was negligent in his handling of the case.
3. He asserts Mr Ukwuoma failed to obtain and present vital evidence at the hearings, including medical records and a GP report showing his leg injury.
4. He argues Mr Ukwuoma did not adequately challenge the dismissal and failed to cross-examine witnesses at the hearings.
5. He requests the Tribunal relist the case with a direction for Mr Ukwuoma to obtain medical evidence.

Previous reconsideration application

6. The Claimant previously applied for reconsideration of my decision in a letter dated 6 July 2023. I refused that application in a decision/judgment earlier today.
7. His grounds were that he was unwell at the hearing on 21 June 2023 and unable to participate, and that his barrister was absent. He disputed the lawfulness of his dismissal process.
8. I carefully considered these grounds and refused the application in a decision dated 18 July 2023. I found the conduct of the claim was unreasonable and it was no longer possible to have a fair hearing.

9. I decided there was no reasonable prospect of my decision being revoked and I would not exercise my discretion to reinstate the claim.
10. I remain of this view for the reasons given in my decision of 18 July 2023.

Conclusions

11. I have considered the new application for reconsideration dated 15 September 2023.
12. In substance, it makes the same request as the previous reconsideration application - that I reinstate the claim so that it can proceed to a hearing.
13. The only new grounds relate to the alleged conduct of Mr Ukwuoma. However, allegations about representative negligence were not raised at the time of the hearing. Even if they had been, or if they had been made in the earlier application, matters of professional negligence (as it is characterised by the Claimant) are not issues which will mean that the Tribunal would accede to an application to reconsider.
14. It is a generally accepted legal principle that a client is responsible for the actions of their representatives and that if they are unhappy with the work of their representative, it is a matter for them. If the Claimant wishes to pursue complaints about his representative, there are other avenues open to him.
15. I note that I did not make a wasted costs order against Mr Ukwuoma, despite the Respondent inviting me to do so, because I was satisfied that he was acting on his client's instructions and had done the best that he had been able to with those instructions and in the circumstances.
16. Pursuant to Rule 72(1) of the Employment Tribunals Rules of Procedure 2013, I decline to consider this application as it makes substantially the same request as the previous application which I have already refused for the reasons given in my decision of 18 July 2023.
17. I remain satisfied that the Claimant's litigation conduct has been unreasonable and that it is no longer possible to have a fair hearing.
18. The Claimant has not identified any error of law in my decision or presented any other compelling reason why I should revisit my decision to strike out the claim.
19. For those reasons, the further application for reconsideration dated 15 September 2023 is refused.

Judge M Aspinall
Wednesday, 18th October 2023