



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mrs D Petrova

v

Royal Mail Group Ltd

JUDGMENT ON AN APPLICATION FOR RECONSIDERATION OF A JUDGMENT UNDER RULE 71 OF THE EMPLOYMENT TRIBUNAL RULES OF PROCEDURE 2013

1. The claimant has applied for a reconsideration of the judgment sent to the parties on 27 July 2023 under r.71 of the Employment Tribunal Rules of Procedure 2013. Having considered the application under r.72(1) the employment judge considers that there is no reasonable prospect of the judgment being varied or revoked on those grounds. The application for a reconsideration is rejected.
2. The procedure for an application for a reconsideration is set out in rule 72 of the Rules of Procedure 2013. It is a two stage process. If the employment judge who made the judgement considers that there is no reasonable prospect of the original decision being varied or revoked the application shall be refused under rule 72(1) and the Tribunal shall inform the parties of the refusal. Otherwise the Tribunal shall send a notice to the parties setting a time limit for any response and seeking the views of the parties on whether the application can be determined without a hearing. That notice may set out the Judge's provisional views on the application. Unless the judge considers that a hearing is not necessary in the interests of justice, if the application is not rejected under rule 72(1), then the original decision shall be reconsidered by the full tribunal who made the original decision.
3. The claimant's application for reconsideration is dated 9 August 2023. In it she states that she had previously believed that in order to bring the claim she would still need to be in employment with the respondent. I refer to but do not repeat the reasons for striking out the claim which included that at a hearing on 2 May 2023 I determined that the tribunal had no jurisdiction to consider the only complaint because it was one of breach of contract and the employment was

still continuing. I also have reference to the reasons given at the time of that hearing which were sent in writing to the parties on 26 June 2023.

4. The claimant informs the tribunal that she resigned from her employment on 8 August 2023. She states that her reasons were “the repeated changes of my weekly working days by the company without my consent, their failure to provide to me any written confirmation of the imposed changes, as well as the blocking my personal email address by the HR Department, which I consider to be a prolonged breach of my contract and discriminatory treatment.” The claim form did not include a complaint of discrimination.
5. I read this correspondence with an intention to understand what lies behind it rather than simply a literal meaning of the words. However even if one understands this to be a statement by the claimant that she now has a cause of action within the jurisdiction of the tribunal because her employment is now at an end and that she wishes now to complain about breach of contract, in my view any such cause of action arose no earlier than 8 August 2023. Therefore, it cannot have been within the scope of the present litigation at the time of the hearing on 2 May 2023 or the judgement sent on 27 July 2023. The assertion that the claimant now has a right to complain which she did not have at the time of the hearing or the judgment does not cause me to think that there are better than no reasonable grounds that the judgment would be varied.
6. The claimant does not in so many words apply to amend her claim after judgment. Even taking into account that she could potentially apply to amend her claim to include a cause of action which arose after the claim started and even one which arose after judgement had been entered the best that can be said is that she applies to reconsider the judgement in order to make such an application. Subject to any applicable time limits, she may be able to present a fresh claim. An amendment application, if it is what is intended, may not be successful. The claimant has not applied for a reconsideration of the judgment sent on 26 June 2023 by which I determined that there were no reasonable prospects of the claim succeeding. The judgment dismissing the claim because the tribunal had no jurisdiction to consider the claim is the logical conclusion of that earlier judgment. The prospects of this new information leading to the judgment dismissing the claim being varied or revoked seem in all those circumstances to be fanciful.

Employment Judge George

Date: ...7 November 2023.....

Sent to the parties on:
14 November 2023

For the Tribunal Office