



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Miss B Barker

v

Neptune House Limited

JUDGMENT ON APPLICATION FOR RECONSIDERATION

1. The Claimant's application dated 8 November 2022 for reconsideration of the judgment dated 29 October 2022 ("the Judgment") is refused. There are no reasonable prospects of the judgment being varied or revoked.
2. The Judgment is confirmed.

REASONS

1. By rule 70 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 ("the Rules") the Employment Tribunal may reconsider a 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 shall be presented in writing (and copied to all other parties) within 14 days of the date upon which the written record of the original decision was sent to the parties. This application is in time. The delay in responding to the reconsideration application relates to the Claimant requesting written reasons for the judgment. The written reasons were provided to the Claimant and a further period of time offered to her in case she wished to add or amend her reconsideration application. No further reconsideration applications were provided. Therefore, I have proceeded to consider the reconsideration application on the basis of the Claimant's original email of 8 November 2022.
3. Under Rule 70, a judgment will only be reconsidered where it is necessary in the interests of justice to do so. This allows an Employment Tribunal a broad discretion to determine whether reconsideration 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 the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.

4. The procedure upon a reconsideration application is for the Employment Judge that heard the case to consider the application and determine if there are reasonable prospects of the judgment being varied or revoked. This is a reviewing function in which the Judge must consider whether there is a reasonable prospect of the original decision being varied or revoked (rule 72). Reconsideration cannot be ordered simply because the applicant disagrees with the judgment.
5. If the Judge considers that there is no such reasonable prospect then the application shall be refused. Otherwise, the Judge shall send a notice to the parties setting a time limit for any response to the application by the other party and seeking the views of the parties on whether the application can be determined without a hearing (rule 72).
6. My role, upon the considering of the application upon the papers initially, is therefore to operate as a filter to determine whether there is a reasonable prospect of the Judgment being varied or revoked were the matter to be the subject of a reconsideration hearing.
7. The Claimant's application is no more than a disagreement with the factual findings of the Tribunal. The Claimant's argument made at the hearing (and repeated in the application for reconsideration) is that Miss Brook's witness statement was inconsistent with regard to the timescale of the diminishing requirement for a PA and the hours worked by the Claimant from 2019 onwards and that redundancy was not a fair reason for dismissal and her dismissal was a sham redundancy. The reconsideration application seeks to raise the issue of various factual disputes regarding the work of the Claimant and her hours. Findings have already been made on those issues which I am satisfied were open to me on the evidence provided. Adequate reasons were given for rejecting the argument's advanced by the Claimant, her attempt to reargue the same in the application for reconsideration do not, in my finding, lead to a reasonable prospect of success that the Judgment should be varied/ revoked.
8. I am satisfied that I applied the law correctly and gave full reasons for the decision I reached. In my judgment, there are no reasonable prospects of the Judgment being varied or revoked. It is not necessary in the interests of justice to reconsider the Judgment. Accordingly, the Claimant's application for reconsideration fails and is dismissed.

Judge A Shields

Date: 16 March 2023