



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr J Galloway

v

Rentokill Initial UK Limited

Before: Employment Judge JM Wade (in chambers)

JUDGMENT

The claimant's application for reconsideration sent to the Tribunal on 9 February 2024 in respect of a reserved Judgment sent to the parties on 31 January 2024 is refused, there being no reasonable prospects of the Judgment being varied or revoked.

REASONS

1. Rule 72 of Schedule 1 to the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013 provides that the Employment Judge shall consider any application to reconsider a Judgment.
2. The claimant sent such an application on 9 February 2023 by email. It was not copied to the respondent in accordance with Rule 92 and I have directed a letter to that effect, in order that the respondent receives a copy.
3. The application makes a number of points. Firstly, that had the claimant been advised by a solicitor, his claim would have succeeded. There are no prospects of the judgment being varied or revoked on this basis because the Tribunal applied Rule 2(a) – so far as practicable we put the parties on an equal footing – which included putting the claimant's case to the respondent witnesses for comment (taking care that they understood they should not agree with the case because it was being put by the Tribunal but that we had, so far as practicable, to comply with Rule 2(a). There is often an imbalance in representation before the Tribunal and that is one of the reasons for Rule 2(a). There is no suggestion that the Tribunal did not comply with this Rule in the conduct of the hearing.

4. Secondly, the point is made that a without prejudice offer from the respondent indicated guilt on the part of the respondent, and the Tribunal's decision cannot be right in these circumstances – that is the gist of the point. This too has no reasonable prospects of success. Firstly, the Tribunal has to put aside such evidence – it is covered by the without prejudice rule unless there is evidence that the rule is being used as a cloak for wrongdoing – and there was no suggestion of that here. More substantively, the Tribunal's industrial knowledge tells us that such an offer, even if privilege was waived, which it was not, indicates the opposite of the claimant's contention. That experience tells us that a £500 offer in a case of this kind indicated the respondent considered the case had no merit, but in order to avoid the costs of the hearing, could justify a payment of that sum.
5. Thirdly, the claimant seeks to adduce new evidence from his fiancée about what was said at the disciplinary hearing. The Tribunal has made findings at paragraphs 17 to 19 and these align with the new evidence he puts in the application. There is no need to consider that new evidence. The Tribunal's judgment explains why the dismissal was appropriate and reasonably necessary taking into account the disciplinary hearing, about which findings have been made.
6. Finally, the application indicates the impact of the decision on the claimant, not least because he considers he now has a new title of, "thief". That is expressly not the conclusion or basis of the Judgment, and the Tribunal could not have been clearer about that.
7. In all these circumstances there are no prospects of the decision being revoked or varied and the application is refused.

Employment Judge JM Wade

Date 23 February 2024

JUDGMENT AND REASONS SENT TO THE PARTIES ON

Date: 27th February 2024

FOR THE TRIBUNAL OFFICE

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