



EMPLOYMENT TRIBUNALS

Claimants: Mr K Carr
Ms A Adams
Mr D Helmuth
Mr M Newell
Mr P Kibble
Mr T O'Donoghue

Respondent: Norstead Limited "In Administration"

Rule 96 party: Secretary of State for Business and Trade

JUDGMENT ON RECONSIDERATION

Employment Tribunals Rules of Procedure 2013 – Rule 72

The application by the claimants dated 16 April 2024 for reconsideration of the Judgment sent to the parties on 18 January 2024 is refused.

REASONS

1. Pursuant to Rule 72 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013 ("the ET Rules"), there is no reasonable prospect of the original decision being varied or revoked for the reasons set out below.

The Facts

2. On 22 May 2023 CFS Redundancy Payments Limited submitted a claim form to the Employment Tribunal on behalf of a group of employees, including the above named six claimants, for a protective award. It was stated at box 8.2 of the ET1 that "The redundancies were made on 27/02/2023". Two other claims were received which were joined into this litigation and their date of dismissal were given as 24 February 2023.
3. On 30 November 2023 the Tribunal wrote to Mr Addison of CFS Redundancy Payments Limited requiring him to provide specific information about each claim. In particular, each claimant was required to provide the following information

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2501481/2023, 2501475/2023 & 2501482/2023**

- “1. The address of the site or establishment they worked at or from
 2. The number of redundancies which took place at that site
 3. The date the first redundancy took place at that site
 4. The date the last redundancy took place at that site”
4. On 27 November 2023 Lauren Gage on behalf of CFS Redundancy Payments Limited replied to the Tribunal on behalf of all the claimants providing the address for the site or establishment, stating that there had been 46 redundancies and
- “The date the first redundancy took place at that site 28/02/2023” and “The date the last redundancy took place at that site 28/02/2023”
5. The Rule 21 Judgment for a protected award was sent to the parties on 18 January 2024. On 19 January 2024 the Tribunal Officer for the Secretary of State within the Redundancy Payment Services made a decision that the claimants named above could not receive a payment from the National Insurance Fund because they were dismissed on 23 February 2023 which was before the protected period began on 24 February 2023, as determined by this Tribunal on 15 January 2024.
6. On 13 March 2024 Myles Addison, representative for the above-named claimants, wrote to the Employment Tribunal asking for the original Judgment to be amended on the grounds that the above-named claimants had been dismissed on 23 February 2023 rather than 24 February 2023. This application was treated as an application for reconsideration of the Judgment under Rules 70 to 72 of the ET Rules and the application was refused on 15 April 2024 on the grounds that it had been made more than 14 days after the decision was sent to the parties and no explanation had been given for the delay. It was also refused on the grounds that the claimant’s representative had not copied the application for reconsideration to the other parties and there was no evidence that it was in the interests of justice for that requirement to be dispensed with.
7. On 16 April 2024 Mr Addison made a second application for reconsideration which was copied to the other parties. Mr Addison states that he was not aware that the Redundancy Payment Services had refused to make a payment of a protective award to the above-named claimants until 8 March 2024 and enclosed a copy of an email dated 8 March 2024 from the Redundancy Payments Officer which states “FRP confirm that the below six claimants were dismissed on 23/2/23. The protected period starts from the 24/2/23 so they need to go back to the Tribunal and ask for an amended judgment.”

The Law

8. Rule 72 of the ET Rules states

“(1) An Employment Judge shall consider any application made under rule 71. If the Judge considers that there is no reasonable prospect of the original decision being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application shall be refused and the Tribunal shall inform the parties of the refusal.”

Discussion and Decision

9. Applying the relevant law to the facts, the application made on behalf of the claimant for a reconsideration is out of time. However, I have applied my discretion in extending the time limit and accepted the email dated 16 April 2024 as a valid application for a reconsideration.
10. Taking the application for reconsideration at its highest, the claimants have failed to provide any explanation as to why they gave their dates of dismissal on the ET1 form as 27 February 2023 and, via their representative on 27 February 2023, as being 28 February 2023 after specific enquiries were made by this Tribunal.
11. The application for reconsideration does not explain why the claimant is now wish to argue they were dismissed on 23 February 2023, nor have they identified any reasons why they were unaware of their dates of dismissal at the time they submitted their claim to the Tribunal. It is incumbent upon each claimant and their representative to ensure the correct information is provided to the Tribunal at the time the ET1 was submitted and also in reply to specific orders made by an Employment Judge, but the application for reconsideration does not demonstrate any grounds, reasonable or otherwise, for providing the incorrect information.
12. Looking at all the circumstances in the round, the application for reconsideration, taken at its highest, has no reasonable prospects of the original decision being varied or revoked as no explanation is provided for the discrepancy in the dates of dismissal, even though the claimants have been professionally represented and specific enquiries have been made by this Tribunal before issuing the Judgment. The application for reconsideration is refused

Employment Judge Arullendran

Date: 24 April 2024