



EMPLOYMENT TRIBUNALS

Claimant: Mr R Arrowsmith

Respondent: MacDonald Hotels (Management) Limited

RECONSIDERATION JUDGMENT

The respondent's application dated 23 April 2024 for reconsideration of the Judgment sent to the parties on the same date, is refused.

REASONS

1. An application for reconsideration is an exception to the general principle that (subject to appeal on a point of law) a decision of an Employment Tribunal is final. The test is whether it is necessary in the interests of justice to reconsider the judgment (rule 70).
2. The Court of Appeal in **Ministry of Justice v Burton** [2016] EWCA Civ 714 has emphasised the importance of finality, which militates against the discretion being exercised too readily.
3. The respondent did submit a response form to the Tribunal within the required time, as the respondent quite correctly asserts in its reconsideration application. The application is also correct in that the claim was previously listed for hearing on 22 May 2024.
4. In the response form submitted, in answer to the question (in 6.1) do you intend to defend the claim, the respondent ticked the box to say no. The response form itself contained no other content. There was nothing which suggested that the box had been ticked in error.
5. Rule 21 of the Employment Tribunal rules of procedure provides that where the respondent has stated that no part of the claim is contested (as was the position in this case), parts (2) and (3) of rule 21 apply. Rule 21(2) provides that an Employment Judge shall decide whether on the available material a determination can properly be made of the claim. To the extent that a determination can be made, it says that the Judge shall issue a Judgment accordingly.

6. On 8 April 2024, in the light of the respondent's statement (by ticking the relevant box) that it did not intend to defend the claim, I considered that rule 21(1) had been satisfied and I undertook the step required by rule 21(2). I considered that on the available material I could properly make a determination of the claim. I did so, and issued a Judgment (as rule 21(2) provides). The hearing was cancelled as it was no longer required.

7. There is nothing in the reconsideration application which means I was wrong to do so, or which would provide the basis for any genuine argument that it is in the interests of justice for the Judgment issued to be set aside. The respondent is able to make payment in accordance with the Judgment issued, time for an amicable settlement to be reached is not required.

8. There is accordingly no reasonable prospect of the original decision being revoked. It is not in the interests of justice for the Judgment to be revoked. The application is refused.

Employment Judge Phil Allen
2 May 2024

JUDGMENT SENT TO THE PARTIES ON
13 May 2024

FOR THE TRIBUNAL OFFICE